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PENNSYLVANIA BULLETIN

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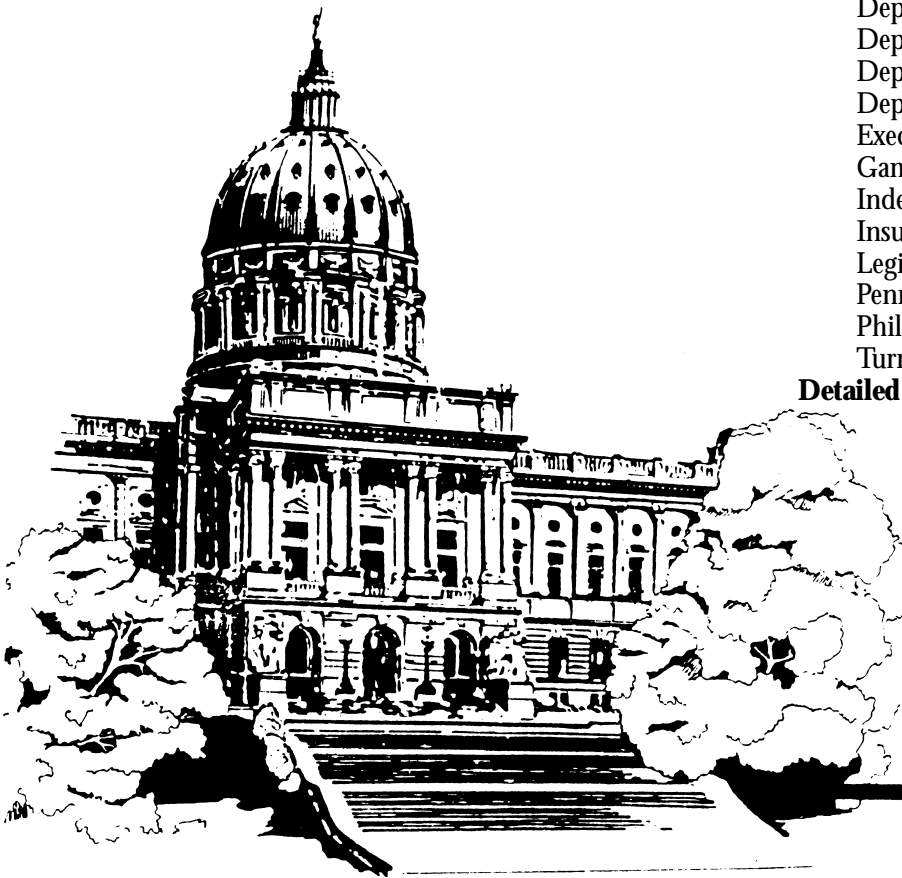
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Executive Board
Game Commission
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Insurance Department
Legislative Reference Bureau
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
Turnpike Commission

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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 328, March 2002

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

Adoption, Amendment or Repeal of Regulations

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; they still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania*

Bulletin before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

Citation to the *Pennsylvania Bulletin*

Cite material in the *Pennsylvania Bulletin* by volume number and page number. Example: Volume 1, *Pennsylvania Bulletin*, page 801 (short form: 1 Pa.B. 801).

Pennsylvania Code

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa.Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

How to Find Documents

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

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Printing Format

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised; and that the fiscal note shall provide the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the five succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the five succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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THE GOVERNOR

GOVERNOR'S OFFICE

Amendment to Proclamation of Disaster Emergency

February 27, 2002

Whereas, on December 4, 2001, I extended the Proclamation of Disaster Emergency that was issued on September 11, 2001 in response to the acts of terrorism in New York City, New York, Washington, D.C., and Somerset County, Pennsylvania; and

Whereas, there continues to be a need for the Commonwealth to provide supplementary personnel and other resources at critical facilities in Pennsylvania, such as airports and nuclear power plants, in order to provide additional security, monitoring and other measures to protect the safety and well-being of the citizens of Pennsylvania; and

Whereas, the Federal government, through the Office of Homeland Security and the Department of Justice, has asked all state and municipal governments to commit additional resources, in the form of National Guard and law enforcement personnel, urban search and rescue and hazardous materials response teams and other resources, in order to provide additional emergency response, security and law enforcement resources in the ongoing fight against terrorism, and

Whereas, in response to the request from the Federal government to provide law enforcement, security and other forms of assistance at critical facilities and other locations in Pennsylvania and because there is a need to provide such assistance in order to protect the health, safety and welfare of the citizens of Pennsylvania from possible future acts of terrorism;

Now Therefore, I, Mark Schweiker, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution, the Emergency Management Services Code, 35 Pa.C.S. Section 7101 et seq., as amended, and other laws of the Commonwealth, do hereby amend the Proclamation of September 11, 2001, as follows;

1. The period of the state of disaster emergency is extended from March 9, 2002 through June 7, 2002.

2. I hereby transfer an additional \$500,000.00 in unused appropriated funds to the Pennsylvania Emergency Management Agency. The aforementioned funds shall be used for disaster-related expenses incurred by various state agencies and departments. These funds shall be credited to a special account established by the Office of the Budget. All Commonwealth agencies purchasing supplies or services in response to this emergency are authorized to utilize the emergency procurement procedures set forth in Section 516 of the Commonwealth Procurement Code, 62 Pa.C.S. Section 516. This Proclamation shall serve as the written determination of the basis for the emergency under Section 516; and

3. I hereby authorize the Adjutant General of Pennsylvania to place on state active duty for the duration of the emergency such individuals and units of the Pennsylvania National Guard as may be needed to provide security and other public safety measures at critical facilities in Pennsylvania and to alleviate the danger to public health and safety caused by the aforementioned emergency; and

4. I hereby authorize the Commissioner of the Pennsylvania State Police to use all available equipment, resources and personnel of the Department, in whatever manner he deems necessary, to ensure that the public health, safety, and welfare of the Commonwealth's citizens are protected at this time of emergency; and

5. I hereby direct that the other operational provisions of the September 11, 2001 Proclamation that remain applicable to the current emergency circumstances in Pennsylvania shall continue in full force and effect.

6. This Proclamation amendment shall take effect immediately from the date of this amendment.

Given under my hand and the Seal of the Governor, at the city of Harrisburg, this twenty-seventh day of February in the year of our Lord, two thousand and two and of the Commonwealth, the two hundred and twenty-sixth.



Governor

[Pa.B. Doc. No. 02-413. Filed for public inspection March 15, 2002, 9:00 a.m.]

THE COURTS

Title 207—JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

[207 PA. CODE CH. 33]

Notice of Adoption of Formal Opinion 2002-1

Notice is hereby given that the Ethics Committee of the Pennsylvania Conference of State Trial Judges has adopted its Formal Opinion 2002-1.

HOWLAND W. ABRAMSON,
Chairperson
Ethics Committee
Pennsylvania Conference of State Trial Judges

FORMAL OPINION 2002-1

Judicial Ethics Committee of the Pennsylvania Conference of State Trial Judges

Time Withdrawn Judicial Candidates Must End Fund Raising

The Committee has received several requests for advice asking when judicial candidates who have withdrawn their candidacy must end fund raising. Because of the importance of this issue throughout the Commonwealth, the Committee issues this Formal Opinion.

History of Pennsylvania law

Effective January 1, 1999 the Supreme Court amended Canon 7B (2) of the Code of Judicial Conduct to expressly provide that fund raising of a judicial campaign must end "no later than the last calendar day of the year in which the judicial election is held." Before the amendment the Code did not expressly provide when fund raising must end. However, before the amendment this Committee had decided that after an election, a judge could have only one fund raiser; the judge could not attend, and the fund raiser was required to be held within 6 months after the judge was sworn in.

The Pennsylvania Code of Judicial Conduct does not expressly address the time when a withdrawn judicial candidate must end fund raising.

Other Jurisdictions

In contrast to Pennsylvania, the Ohio Code of Judicial Conduct expressly provides the time when defeated or withdrawn judicial candidates must end fund raising. That time is the earlier of the time the campaign debt is paid off or 120 days after the defeat or withdrawal. Ohio Code of Judicial Conduct 7(C)(4)(b),(c). Candidates who participate in the general election may raise funds until 120 days after the general election. Ohio Code of Judicial Conduct 7(C)(4)(a).

In New York judicial candidates who do not run in the general election can raise funds for six months after the primary, convention, caucus, or meeting. New York Codes, Rules and Regulations sections 100.0 (Q), 100.5 (A)(5). Candidates who run in the general election may raise funds for six months after the general election. Id.

Some other jurisdictions measure the ending time for fund raising from the number days after the last election in which the candidate participates during the election year and do not expressly address withdrawn candidates.

E.g., Nebraska Code of Judicial Conduct 5C (2) (30 days); Washington Code of Judicial Conduct 7B (2) (60 days); North Dakota Code of Judicial Conduct 5C (2) (90 days); Alabama Canons of Judicial Ethics 7B (4)(b) (120 days). The 1972 American Bar Association Model Code of Judicial Conduct and the 1990 American Bar Association Model Code of Judicial Conduct provide for 90 days.

The Kentucky Code of Judicial Conduct prohibits any fund raising after the general election. Kentucky Rules of the Supreme Court 4.300, Code of Judicial Conduct 5B (2).

Louisiana permits post election fund raising only for the purpose of extinguishing campaign debt resulting from that election. Louisiana Code of Judicial Conduct 7D (3).

Rationale for the Committee's Opinion

Pennsylvania Code of Judicial Conduct 7B (2) provides in pertinent part:

A candidate's committees may solicit funds *for his campaign* no earlier than thirty (30) days prior to the first day for filing nominating petitions or the last day for filing a declaration of intention to seek reelection on a retention basis, and all fundraising activities *in connection with such judicial campaign* shall terminate no later than the last calendar day of the year in which the judicial election is held.

(Emphasis added).

The Committee observes that the Code limits candidates who participate in the general election to a post election fund raising period of less than sixty days, i. e. from the date after the general election (which is held in November) to December 31. The Committee considered whether candidates who withdraw should be limited to fund raising after their withdrawal by the same number of days as candidates who participate in the general election have after the general election, a period of less than sixty days. However, because the language of the Code provides the date by which fund raising must end rather than the number of days after the general election and does not refer to the general election in selecting the ending date, the Committee rejected the view that fund raising must end by a period of less than sixty days after the candidate withdraws, i.e. the number of days a candidate in the general election would have to fund raise after the general election.

However, as indicated by the above underlined portions of the Code, in addition to the December 31 cut off date, the Code limits fund raising "for his campaign" and "in connection with such judicial campaign." These limits require that a withdrawn judicial candidate end fund raising when the campaign debt has been extinguished. The reason is that for a withdrawn candidate, because such judicial campaign has ended, any fund raising after the debt has been extinguished could not be for "such judicial campaign." To give effect to all the provisions of Code of Judicial Conduct 7B (2), a withdrawn judicial candidate must end fund raising when the campaign debt has been extinguished or by December 31 of the election year, whichever occurs first.

[Pa.B. Doc. No. 02-414. Filed for public inspection March 15, 2002, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1900, 1910, 1915 AND 1920]
Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters

Recommendation 58

The Domestic Relations Procedural Rules Committee proposes the following amendments to Rules of Civil Procedure 1905, 1910.2, 1910.16-6, 1910.16-7, 1915.3 and 1920.74 and new Rule 1910.2-1. The Committee solicits comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania.

Written comments relating to the proposed rules must be received no later than Friday, May 3, 2002. Please direct comments to:

Patricia A. Miles, Esquire
Counsel, Domestic Relations Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055
FAX (717) 795-2116
E-mail patricia.miles@supreme.court.state.pa.us

The notes and explanatory comments which appear in connection with the proposed amendments have been inserted by the Committee for the convenience of those using the rules. They will not constitute part of the rules and will not officially be adopted or promulgated by the Supreme Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1905. Forms for use in PFA Actions. Notice and hearing. Petition. Temporary protection order. Final protection order.

* * * * *

(e) The Final Order of Court entered pursuant to the Act shall be substantially in the following form:

(Caption)

FINAL ORDER OF COURT

Defendant's Name: _____

Defendant's Date of Birth: _____

Defendant's Social Security Number: _____

Names and Dates of Birth of All Protected Persons, including Plaintiff and minor children:

Names

Dates of Birth

_____	_____
_____	_____
_____	_____

CHECK ALL THAT APPLY:

Plaintiff or Protected Person(s) is/are:

- ☐ spouse or former spouse of Defendant
☐ parent of a common child with Defendant

☐ current or former sexual or intimate partner with Defendant

☐ child of Plaintiff

☐ child of Defendant

☐ family member related by blood (consanguinity) to Defendant

☐ family member related by marriage or affinity to Defendant

☐ sibling (person who shares biological parent-hood) of Defendant

☐ current or former cohabitant (person who lives with) Defendant

Defendant was served in accordance with Pa.R.C.P. 1930.4 and provided notice of the time, date and location of the hearing scheduled in this matter.

AND NOW, this _____ day of _____, [19]20 , the court having jurisdiction over the parties and the subject-matter, it is ORDERED, ADJUDGED AND DECREED as follows:

* * * * *

☐ 1. Defendant shall not abuse, stalk, harass, threaten or attempt to use physical force that would reasonably be expected to cause bodily injury to the Plaintiff or any other protected person in any place where they might be found.

☐ 2. Defendant is completely evicted and excluded from the residence at (NONCONFIDENTIAL ADDRESS FROM WHICH DEFENDANT IS EXCLUDED) or any other residence where Plaintiff or any other person protected under this Order may live. Exclusive possession of the residence is granted to Plaintiff. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this Order.

* * * * *

☐ 5. Custody of the minor children, [[names of the children subject to the provision of this paragraph]] [NAMES OF THE CHILDREN SUBJECT TO THE PROVISION OF THIS PARAGRAPH] shall be as follows: [[state to whom primary physical custody awarded; state terms of partial custody or visitation, if any.]] [STATE TO WHOM PRIMARY PHYSICAL CUSTODY AWARDED; STATE TERMS OF PARTIAL CUSTODY OR VISITATION, IF ANY.]

* * * * *

☐ 7. Defendant is prohibited from possessing, transferring or acquiring any other weapons for the duration of this [order] Order. Any weapons delivered to the sheriff under Paragraph 6 of this Order or under Paragraph 6 of the Temporary Order shall not be returned until further order of court.

* * * * *

☐ 9. Defendant is directed to pay temporary support for: [[insert the names of the persons for whom support is to be paid]] [INSERT THE NAMES OF THE PERSONS FOR WHOM SUPPORT IS TO BE PAID] as follows: [[insert amount, frequency and other terms and conditions of the support order]] [INSERT AMOUNT, FREQUENCY AND OTHER TERMS AND CONDITIONS OF THE SUPPORT OR-

DER]. This order for support shall remain in effect until a final order is entered by this Court. However, this order shall lapse automatically if the Plaintiff does not file a complaint for support with the Domestic Relations Section of the court within two weeks of the date of this order. The amount of this temporary order does not necessarily reflect the Defendant's correct support obligation, which shall be determined in accordance with the guidelines at the support hearing. Any adjustments in the final amount of support shall be credited, retroactive to this date, to the appropriate party.

* * * * *

☐ Plaintiff is granted leave to present a petition, with appropriate notice to Defendant, to **[insert the name of the judge or court to which the petition should be presented]** **[INSERT THE NAME OF THE JUDGE OR COURT TO WHICH THE PETITION SHOULD BE PRESENTED]** requesting recovery of out-of-pocket losses. The petition shall include an exhibit itemizing all claimed out-of-pocket losses, copies of all bills and estimates of repair, and an order scheduling a hearing. No fee shall be required by the Prothonotary's Office for the filing of this petition.

[☐ 12. BRADY INDICATOR.

1. ☐ **The Plaintiff or protected person(s) is a spouse, former spouse, a person who cohabitates or has cohabited with the Defendant, a parent of a common child, a child of that person, or a child of the Defendant.**

2. ☐ **This order is being entered after a hearing of which the Defendant received actual notice and had an opportunity to be heard.**

3. ☐ **Paragraph 1 of this Order has been checked to restrain the Defendant from harassing, stalking, or threatening Plaintiff or protected person(s).**

4. ☐ **Defendant represents a credible threat to the physical safety of the Plaintiff or other protected person(s).**

OR

☐ **The terms of this order prohibit Defendant from using, attempting to use, or threatening to use physical force against the Plaintiff or protected person that would reasonably be expected to cause bodily injury.**

13]12. * * *

[14]13. All provisions of this order shall expire in **[one year] eighteen months**, on **[insert expiration date]** **[INSERT EXPIRATION DATE]**

NOTICE TO THE DEFENDANT

VIOLATION OF THIS ORDER MAY RESULT IN YOUR ARREST ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT WHICH IS PUNISHABLE BY A FINE OF UP TO \$1,000 AND/OR A JAIL SENTENCE OF UP TO SIX MONTHS. 23 PA.C.S. § 6114. VIOLATION MAY ALSO SUBJECT YOU TO PROSECUTION AND CRIMINAL PENALTIES UNDER THE PENNSYLVANIA CRIMES CODE.

THIS ORDER IS ENFORCEABLE IN ALL FIFTY (50) STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS, U.S. TERRITORIES AND THE COMMONWEALTH OF PUERTO RICO UNDER THE VIOLENCE AGAINST WOMEN ACT, 18 U.S.C. § 2265. IF YOU

TRAVEL OUTSIDE OF THE STATE AND INTENTIONALLY VIOLATE THIS ORDER, YOU MAY BE SUBJECT TO FEDERAL CRIMINAL PROCEEDINGS UNDER THAT ACT, 18 U.S.C. §§ 2261—2262. [IF PARAGRAPH 12 OF THIS ORDER HAS BEEN CHECKED, YOU MAY BE SUBJECT TO FEDERAL PROSECUTION AND PENALTIES UNDER THE "BRADY" PROVISIONS OF THE GUN CONTROL ACT, 18 U.S.C. § 922(g), FOR POSSESSION, TRANSPORT OR RECEIPT OF FIREARMS OR AMMUNITION.] IF YOU POSSESS A FIREARM OR ANY AMMUNITION WHILE THIS ORDER IS IN EFFECT, YOU MAY BE CHARGED WITH A FEDERAL OFFENSE EVEN IF THIS PENNSYLVANIA ORDER DOES NOT EXPRESSLY PROHIBIT YOU FROM POSSESSING FIREARMS OR AMMUNITION. 18 U.S.C. § 922(g).

NOTICE TO LAW ENFORCEMENT OFFICIALS

* * * * *

Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse. The **[insert the appropriate name or title]** **[INSERT THE APPROPRIATE NAME OR TITLE]** shall maintain possession of the weapons until further order of this Court.

* * * * *

Explanatory Comment—Rule 1905 Forms—1997

The use of standardized forms provides uniformity and is also critical to the enforcement of protection orders both inside and outside of the Commonwealth. These forms are substantially based on those proposed by members of the Pennsylvania Coalition Against Domestic Violence and have been further refined to accommodate the litigants need for simplicity, the court's need for flexibility and law enforcement's need for certain identifying information necessary to enforce the protection order.

The forms must be used so that all protection orders can be properly registered with the statewide PFA Registry and the federal Protection Order File (POF) established by the National Crime Information Center (NCIC) for the collection of information that is necessary for nationwide enforcement of protection orders. Entering a protection order into the Registry and NCIC file enables law enforcement to immediately verify the existence and terms of the order. It is important, therefore, that all protection orders be registered with these two files. To this end, the forms capture all of the information that is required for data entry and the form orders are further structured to present that information in the order and sequence that is most helpful to the various law enforcement agencies responsible for entering the information into the files. Once the information reaches the Registry and is accepted by the NCIC file, it becomes immediately accessible to law enforcement agencies, dispatchers and courts throughout the country.

[I. GENERAL USE OF FORMS]

The provisions in the form petition and orders reflect the most common forms of relief available under the Protection from Abuse Act. Plenty of space, however, is provided for plaintiff to request additional relief, and for courts to fashion appropriate relief, based on the individual circumstances of the litigants. Since all of the provisions will not necessarily apply in every case, the forms adopt a checkbox method that requires the user to affirmatively check only those provisions which are applicable to his or her situation.

In cases where a provision is generally applicable but its terms do not correspond precisely to the relief being requested or granted, the user should not check the standard provision but instead should use the blank spaces provided in the forms to specify the relief. For example, while the final order contains a standard provision permitting the defendant to retrieve personal belongings only in the company of a police officer, there may be more suitable methods of retrieval available in some cases. If so, then the plaintiff or court should use the blank spaces provided in the form petition or order (rather than the standard provision) to specify the alternative manner of retrieval.

[II. THE BRADY LAW

Paragraph 12 of the final protection order reflects what are known as the “Brady” provisions of the federal Violent Crime Control and Law Enforcement Act of 1994 (P. L. 103-322), codified at 18 U.S.C. § 922(g). These provisions amend the Gun Control Act of 1968 to extend the prohibitions relating to the possession, receipt and purchase of firearms and ammunition to persons who are subject to a final protection order, if the order meets the following four criteria: 1) the order must have been entered after a hearing of which the defendant received actual notice and had the opportunity to participate; 2) the plaintiff or protected person is an “intimate partner” within the meaning of 18 U.S.C. § 921(a)(32), or a child of an intimate partner, or a child of the defendant; 3) the terms of the order restrain the defendant from harassing, stalking, or threatening the plaintiff or protected person; and 4) the order includes a finding that the defendant represents a credible threat to the physical safety of the intimate partner or child or by its terms explicitly prohibits the use, attempted use or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury. An “intimate partner” is defined as a spouse, former spouse, a person who cohabitates or has cohabited with the defendant, or a parent of a child who is protected under the order, 18 U.S.C. § 921(a)(32).

The Brady indicator is a mandatory field for entry of a protection order into the national NCIC file, i.e., federal data entry agencies are required to indicate by a “Yes” or “No” response whether a final protection order meets these criteria for disqualifying a defendant from possessing or purchasing firearms or ammunition. Thus, if all four provisions of Paragraph 12 are affirmatively checked, the order will be entered into a statewide Registry and the NCIC file as a “Yes” response indicating that the defendant may be subject to prosecution by the appropriate authorities under federal law if he or she possesses, receives or purchases firearms at any time while the order is in effect. If all four provisions have not been checked, then the order is entered as a “No” response indicating that the order is not Brady-eligible.

It is important to distinguish the Brady disqualifier in Paragraph 12 of the final order from the scope of relief contemplated by Paragraphs 6 and 7 of the temporary and final orders. Under the Protection from Abuse Act, 23 Pa.C.S. § 6108(a)(7), a court may order the defendant to relinquish to the sheriff any weapons which were used or threatened to be used in an incident of abuse and to prohibit

the defendant from acquiring or possessing any other weapons for the duration of the order. The “weapon” used in an incident of abuse may or may not be a firearm. If the weapon used is not a firearm, the defendant may still be disqualified from possessing or purchasing a firearm under Brady if the order otherwise meets the criteria under federal law.]

Explanatory Comment 2002

The Final Order of Court has been amended to eliminate a separate “Brady Indicator” while facilitating application of federal firearms restrictions in domestic violence matters. The federal law will apply so long as the court finds that the parties to the action are in one of the enumerated relationships set forth in 18 U.S.C. § 922(g).

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.2. Venue. Transfer of Action

* * * * *

[(e) If neither party to an action presently resides in the county where the action is pending or a support order is in effect, and the defendant-obligor is not employed in that county, the court may transfer the action or order or both to any county where either party resides or where the defendant-obligor is regularly employed.

(f) It shall be the duty of the domestic relations section of the court in which the action is pending to forward to the domestic relations section of the court to which the action is transferred all papers filed in the action and a certified copy of the docket entries.

(g)] (e) * * *

Explanatory Comment—1999

[The amendments to this Rule are intended to implement the Uniform Interstate Family Support Act (UIFSA) and the Intrastate Family Support Act (IFSA) to facilitate the fair and prompt establishment of child support by means of encouraging the support litigation to take place as a local action in one forum only.] Under the former rule, venue in support matters was in the county where the defendant lived or worked, or in the county where the plaintiff lived if that county was the last family domicile. The amended Rule expands the circumstances under which venue lies in the county in which plaintiff resides. If the action is one for spousal and child support or child support only, plaintiff may bring the action in the county in which the child resides regardless of whether that county was the last family domicile. [The defendant will be required to defend the action there unless he or she can establish sufficient grounds for transfer of the action pursuant to subdivisions (c) through (e) of the proposed rule.] It is important to note, however, that the court may always permit a party or witness to testify by telephone, audiovisual or other electronic means at specially designated locations. 23 Pa.C.S. § 4342(j).

If plaintiff seeks spousal support only, then venue continues to lie in plaintiff's county only if that county was also the last marital domicile.

[Subdivisions (c) through (e) identify the circumstances under which a support action may be transferred to another county. New subdivision (c)

is designed to avoid multiple claims from being litigated in different counties. Subdivisions (d) through (f) are adopted verbatim from former Rule 1910.8 and were moved to Rule 1910.2 only for the convenience of the practitioner in resolving questions of venue.]

Rule 1910.2-1. Procedures Pursuant to the Intrastate Family Support Act.

(a) The court in the county in which the complaint for support is filed shall retain and process the case for so long as all of the following conditions are met:

- (1) there is proper venue pursuant to Rule 1910.2;
- (2) the defendant-obligor's mailing address is known;
- (3) sufficient information is known about the defendant-obligor's employment to enable the court to issue an earnings subpoena; and
- (4) the obligee consents.

Official Note: A support action should be maintained in the county in which the obligee and/or the child(ren) reside and should not involve a second county unless the county of residence is unable to obtain service on the defendant-obligor or obtain information regarding the defendant-obligor's employment. However, the obligee is permitted to request that the case proceed under the Intrastate Family Support Act (IFSA) in accordance with 23 Pa.C.S. § 8103.

If the venue requirements are met, the court in the obligee's county of residence should attempt to retain the case if there already is an order in that county against the same defendant-obligor in this or another child/spousal support case or if the defendant-obligor is incarcerated.

(b) If courts in two or more counties must be involved in the establishment and enforcement of an obligation for support:

- (1) the case must proceed pursuant to the Intrastate Family Support Act; and
- (2) venue shall follow the defendant-obligor in order to maintain the availability of statutory enforcement remedies.

Explanatory Comment—2002

Upon receipt of an Intrastate Family Support Act ("IFSA") complaint, the responding court shall accept the complaint and its original filing date.

The obligee in an IFSA action is not required to be physically present in the responding court at any proceedings to establish, enforce or modify a support order, or to make a determination of paternity. 23 Pa.C.S. § 8311(f) and (g) permits documentary evidence and testimony to be transmitted or obtained through the use of electronic media. In the event that additional information is required from the obligee, the responding court must notify the obligee as to the information needed and the acceptable means of providing it, and offer the obligee the assistance and use of the initiating court's staff and/or facilities to transmit such information. Telephonic hearings are authorized by Rule 1930.3 to accommodate out-of-county parties in both IFSA and locally filed cases with the approval of the court upon good cause shown. The respond-

ing court must provide legal representation for an out-of-county obligee, where necessary, unless the obligee elects to be represented by private counsel.

(c) A support order shall not be registered in another county unless:

- (1) requested by the obligee, or
- (2) necessary to maintain an order for support, to obtain payment of the support obligation or to consolidate multiple cases involving the same defendant-obligor.

(d) Only one support order shall be charging against a defendant-obligor for the same spouse and/or child(ren) at one time.

Explanatory Comment—2002

If the obligee no longer resides in the initiating county, the initiating court may close its case after the following steps have been completed: 1) sending a copy of its docket file to the court in the obligee's new county of residence; 2) notifying the obligee and responding court, if applicable, of when and where the case was transferred; and 3) receiving from the court in the new county of residence acknowledgment of its receipt of the docket file and assumption of the initiating role.

If the defendant-obligor no longer resides in Pennsylvania or is employed outside the commonwealth, and the responding court cannot enforce the order or subpoena earnings or income information, the responding court must consider registration of the case under the provisions of the Uniform Interstate Family Support Act (UIFSA).

Rule 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation.

* * * * *

(c) *Unreimbursed Medical Expenses.* Unreimbursed medical expenses of the obligee or the children shall be allocated between the parties in proportion to their respective net incomes and obligor's share added to his or her basic support obligation.

(1) For purposes of this subdivision, medical expenses are annual unreimbursed medical expenses in excess of \$250 per person which are recurring and can be reasonably predicted by the court at the time of establishment or modification of the support order. Medical expenses include insurance co-payments and deductibles and all expenses incurred for reasonably necessary medical services and supplies, including but not limited to surgical, dental and optical services, and orthodontia. Medical expenses do not include cosmetic, chiropractic, psychiatric or psychological services unless specifically directed in the order of court.

Official Note: While cosmetic, chiropractic, psychiatric and psychological expenses are not required to be apportioned between the parties, the court may apportion such expenses that it determines to be reasonable and appropriate under the circumstances.

* * * * *

Rule 1910.16-7. Support Guidelines. Awards of Child Support When There Are Multiple Families.

* * * * *

(d) When an obligor is subject to more than one order for child support, spousal support and/or

alimony pendente lite, the priority for distribution of payments and/or collections from the obligor, without regard to the source of the funds or method of collection, are as follows unless the court specifically orders a different distribution priority:

- (1) current child support.
- (2) medical, child care or other court-ordered child support related expenses.
- (3) current spousal support or alimony pendente lite.
- (4) child support arrearages.
- (5) spousal support or alimony pendente lite arrearages.
- (6) court costs.

CHAPTER 1915. ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OR MINOR CHILDREN

Rule 1915.3. Commencement of Action. Complaint. Order.

* * * * *

(e) A grandparent seeking physical and/or legal custody of a grandchild pursuant to 23 Pa.C.S. § 5313(b) must plead, in paragraph 7 of the complaint set forth at Rule 1915.15(a), facts establishing the elements of a cause of action under §§ 5313(b)(1), (2) and (3).

MOVING PARTY

Name: _____

Attorney's Name: _____

Attorney's Address: _____

Attorney's Telephone #: _____

Attorney's E-Mail: _____

Party's Address and Telephone # if not represented by counsel: _____

Official Note: It is within the discretion of the court to determine the point at which a master should be appointed in a case. The court may appoint a master to deal with discovery issues.

[Pa.B. Doc. No. 02-415. Filed for public inspection March 15, 2002, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 9]

Order Amending Rules 902 and 904, and Approving the Revision of the Comment to Rule 120; No. 277; Criminal Procedural Rules Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the amendments to Rules of Criminal Procedure 902 (Content of Petition for Post-Conviction Collateral Relief; Request for Discovery) and 904 (Appointment of Counsel; In Forma Pauperis), and approved a correlative revision of the Comment to Rule

Explanatory Comment 2002

In *R.M. v. Baxter*, 777 A.2d 446 (Pa. 2001), the Pennsylvania Supreme Court held that 23 Pa.C.S. § 5313(b) confers automatic standing on grandparents to seek physical and legal custody of a grandchild. However, establishing a cause of action under the statute requires the existence of the elements set forth at 23 Pa.C.S. §§ 5313(b)(1), (2) and (3).

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.74. Form of Motion for Appointment of Master. Order

(a) The motion for appointment of a master shall be substantially in the following form:

(Caption)

MOTION FOR APPOINTMENT OF MASTER

* * * * *

(1) Discovery (is)(is not) complete as to the claim(s) for which the appointment of a master is requested.

(2) The [defendant] non-moving party (has) (has not) appeared in the action (personally) (by his attorney, _____, Esquire).

* * * * *

NON-MOVING PARTY

Name: _____

Attorney's Name: _____

Attorney's Address: _____

Attorney's Telephone #: _____

Attorney's E-Mail: _____

Party's Address and Telephone # if not represented by counsel: _____

120 (Attorneys—Appearances and Withdrawals). The rule changes require (1) the defendant to verify on the petition for post-conviction collateral relief that the attorney filing the petition is authorized to act on the defendant's behalf, and (2) any attorney representing a defendant in post-conviction collateral relief proceedings to file a written entry of appearance. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 26th day of February, 2002, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice, and a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

(1) Rules of Criminal Procedure 902 and 904 are amended; and

(2) the revisions to the Rule 120 Comment are approved all in the attached form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2002.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART B. Counsel

Rule 120. Attorneys—Appearances and Withdrawals.

* * * * *

Comment

* * * * *

See Rule 904(A) that requires an attorney who has been retained or appointed to represent a defendant during post-conviction collateral proceedings to file a written entry of appearance.

Official Note: Adopted June 30, 1964, effective January 1, 1965; formerly Rule 303, renumbered Rule 302 and amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; amended March 22, 1993, effective January 1, 1994; renumbered Rule 120 and amended March 1, 2000, effective April 1, 2001; **Comment revised February 26, 2002, effective July 1, 2002.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the February 26, 2002 Comment revision adding the cross-reference to Rule 904 published with the Court's Order at 32 Pa.B. 1393 (March 16, 2002).

CHAPTER 9. POST-CONVICTION COLLATERAL PROCEEDINGS

Rule 902. Content of Petition for Post-Conviction Collateral Relief; Request for Discovery.

(A) A petition for post-conviction collateral relief shall bear the caption, number, and court term of the case or cases in which relief is requested and shall contain substantially the following information:

* * * * *

(14) a verification by the defendant that:

(1) the facts set forth in the petition are true and correct to the best of the defendant's personal knowledge or information and belief and that any false statements therein are made subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; and

(2) the attorney filing the petition is authorized by the defendant to file the petition on the defendant's behalf;

* * * * *

Comment

Whether privately retained or appointed, the attorney must enter an appearance as provided in Rule 904.

Paragraph (A)(14) was amended in 2002 to require the defendant to include a verification that the attorney is authorized to file the petition.

Pursuant to paragraph (A)(6), the petition should include specific information about the sentence imposed, including whether the defendant is currently serving a sentence of imprisonment or probation for the crime; awaiting execution of a sentence of death for the crime; or serving a sentence which must expire before the defendant may commence serving the disputed sentence; the minimum and maximum terms of the sentence; the amount of fine or restitution, if any; and whether the defendant is released on parole. See 42 Pa.C.S. § 9543(a).

* * * * *

[(v)] Deleted by statute.

* * * * *

"(4) That the failure to litigate the issue prior to or during trial . . . or on direct appeal could not have been the result of any rational, strategic or tactical decision by counsel." See 42 Pa.C.S. § 9543(a)(2), (3), and (4). (Note: the statutory reference to unitary review in this paragraph is not shown in view of the Court's 1997 suspension of the Capital Unitary Review Act.)

* * * * *

Official Note: Previous Rule 1502 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by present Rules 903 and 905. Present Rule 1502 adopted February 1, 1989, effective July 1, 1989; amended August 11, 1997, effective immediately; amended July 23, 1999, effective September 1, 1999; **Comment revised January 21, 2000, effective July 1, 2000; renumbered Rule 902 and Comment revised March 1, 2000, effective April 1, 2001; amended February 26, 2002, effective July 1, 2002.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the February 26, 2002 amendments concerning verification of counsel published with the Court's Order at 32 Pa.B. 1393 (March 16, 2002).

Rule 904. Entry of Appearance and Appointment of Counsel; In Forma Pauperis.

(A) Counsel for defendant shall file a written entry of appearance with the clerk of courts promptly after being retained or appointed, and serve a copy on the attorney for the Commonwealth. If a firm name is entered, the name of an individual lawyer shall be designated as being responsible for the conduct of the case.

[(A)] (B) Except as provided in paragraph [(F)] (G), when an unrepresented defendant satisfies the judge that the defendant is unable to afford or otherwise procure counsel, the judge shall appoint counsel to represent the defendant on the defendant's first petition for post-conviction collateral relief.

[(B)] (C) * * *

[(C)] (D) * * *

[(D)] (E) * * *

[(E)] (F) * * *

[(F)] (G) * * *

Comment

* * * * *

Paragraph [(F)] (G) was added in 2000 to provide for the appointment of counsel for the first petition for post-conviction collateral relief in a death penalty case at the conclusion of direct review.

Official Note: Previous Rule 1504 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by Rule 907. Present Rule 1504 adopted February 1, 1989, effective July 1, 1989; amended August 11, 1997, effective immediately; amended January 21, 2000, effective July 1, 2000; renumbered Rule 904 and amended March 1, 2000, effective April 1, 2001; **amended February 26, 2002, effective July 1, 2002.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the February 26, 2002 amendments concerning entry of appearance by counsel published with the Court's Order at 32 Pa.B. 1393 (March 16, 2002).

FINAL REPORT¹

*Amendments to Pa.Rs.Crim.P. 902 and 904,
Revision of the Comment to Pa.R.Crim.P. 120*

**POST-CONVICTION COLLATERAL PROCEEDINGS:
VERIFICATION OF COUNSEL AND ENTRY OF
APPEARANCE**

On February 26, 2002 effective July 1, 2002, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rules of Criminal Procedure 902 (Content of Petition for Post-Conviction Collateral Relief; Request for Discovery) and 904 (Appointment of Counsel; In Forma Pauperis), and approved a correlative revision of the Rule 120 Comment (Attorneys—Appearances and Withdrawals). The rule changes require (1) the defendant to verify on the petition for post-conviction collateral relief that the attorney filing the petition is authorized to act on the defendant's behalf, and (2) any attorney representing a defendant in post-conviction collateral relief proceedings to file a written entry of appearance.

At the request of the Court, the Committee considered (1) what, if any, procedures should be developed to ensure that a petition for post-conviction collateral relief (PCRA) filed in a case has been authorized by the defendant; and (2) whether there should be specific procedures for the entry of appearance of counsel in post-conviction collateral proceedings. These questions arise in the PCRA context when a PCRA petition is filed by an attorney, and the attorney's authority to represent the defendant is questioned.

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

The Committee reviewed the filing and counsel procedures in Chapter 9 (Post-Conviction Collateral Proceedings) of the Criminal Rules. Rule 902(C) requires the defendant to "state in the petition the name and address of the attorney who will represent the defendant. . . ." Although we believe this requirement is clear, in view of the Court's request, the Committee agreed something more was needed in the rule for the defendant to indicate he or she had authorized the attorney to act on the defendant's behalf. Noting that paragraph (A)(14) requires the defendant to verify the truth of the facts in the petition, the Committee concluded the "something more" could be the addition of the defendant's verification of counsel.

The Committee also noted there is no entry of appearance provision comparable to Rule 120 (Attorneys—Appearances and Withdrawals) in the PCRA rules, and that Rule 120 is not applicable to collateral proceedings. Given the PCRA counsel-related problems central to the Court's inquiry, the Committee agreed it made sense to fill the void in the PCRA rules.

The following briefly describes the changes adopted to implement these considerations.

1. Rule 902 (Content of Petition for Post-Conviction Collateral Relief; Request for Discovery)

Rule 902(A)(14) is divided into two provisions making it clear that the defendant has two things to verify on the petition: (1) that the facts in the petition are true and correct; and (2) that the attorney filing the petition is authorized to file a petition on the defendant's behalf. In addition, a cross-reference to Rule 904 has been added in the Rule 902 Comment to alert attorneys to the entry of appearance requirements.

2. Rule 904 (Appointment of Counsel; In Forma Pauperis) and Rule 120 Comment (Attorneys—Appearances and Withdrawals)

Rule 904 has been amended by the addition of a new paragraph (A) requiring the attorney formally to enter his or her appearance for purposes of representing the defendant during post-conviction collateral relief proceedings. The language is similar to paragraph (A) of Rule 120 (Attorneys—Appearances and Withdrawals). In addition, the title to Rule 904 has been amended by adding "Entry of Appearance and" before "Appointment of Counsel."

Finally, to emphasize the need for the filing of an entry of appearance in all PCRA cases, a cross-reference to Rule 904 has been added to the Rule 120 Comment.

[Pa.B. Doc. No. 02-416. Filed for public inspection March 15, 2002, 9:00 a.m.]

[234 PA. CODE CH. 7]

Order Amending Rule 708; No. 278; Criminal Procedural Rules Doc. No. 2

The Criminal Procedural Rules Committee has prepared a *Final Report* explaining the amendments to Rule of Criminal Procedure 708 (Violation of Probation, Intermediate Punishment, or Parole: Hearing and Disposition). The amendments clarify that the filing of a motion to modify sentence in a violation case under Rule 708 does not toll the 30-day appeal period, and the appeal period in these cases runs from the date of sentence. The *Final Report* follows the Court's Order.

Order

Per Curiam:

Now, this 26th day of February, 2002, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice, and a *Final Report* to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 708 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2002.

Annex A**TITLE 234. RULES OF CRIMINAL PROCEDURE****CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES****PART A. Sentencing Procedures****Rule 708. Violation of Probation, Intermediate Punishment, or Parole: Hearing and Disposition.**

* * * *

(D) Motion to Modify Sentence

A motion to modify a sentence imposed after a revocation shall be filed within 10 days of the date of imposition. **The filing of a motion to modify sentence will not toll the 30-day appeal period.**

Comment

* * * *

Under this rule, the mere filing of a motion to modify sentence does not affect the running of the 30-day period for filing a timely notice of appeal. Any appeal must be filed within the 30-day appeal period unless the sentencing judge within 30 days of the imposition of sentence expressly grants reconsideration or vacates the sentence. See *Commonwealth v. Coleman*, 721 A.2d 798, 799, fn. 2 (Pa. Super. 1998). See also Pa.R.A.P. 1701(b)(3).

Once a sentence has been modified or reimposed pursuant to a motion to modify sentence under paragraph (D), a party wishing to challenge the decision on the motion does not have to file an additional motion to modify sentence in order to preserve an issue for appeal, as long as the issue was properly preserved at the time sentence was modified or reimposed.

Official Note: Former Rule 1409 adopted July 23, 1973, effective 90 days hence; amended May 22, 1978, effective as to cases in which sentence is imposed on or after July 1, 1978; Comment revised November 1, 1991, effective January 1, 1992; amended September 26, 1996, effective January 1, 1997; Comment revised August 22, 1997, effective January 1, 1998; renumbered Rule 708 and amended March 1, 2000, effective April 1, 2001; **amended February 26, 2002, effective July 1, 2002.**

Committee Explanatory Reports:

* * * *

Final Report explaining the February 26, 2002 amendments concerning the 30-day appeal period published with the Court's Order at 32 Pa.B. 1394 (March 16, 2002).

Final Report¹

Amendments to Pa.R.Crim.P. 708

CLARIFYING 30-DAY APPEAL PERIOD FOLLOWING MOTION TO MODIFY SENTENCE IN PROBATION AND PAROLE VIOLATION CASES

On February 26, 2002 effective July 1, 2002, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule 708 (Violation of Probation, Intermediate Punishment, or Parole: Hearing and Disposition). The amendments clarify that the filing of a motion to modify sentence in a violation case under Rule 708 does not toll the 30-day appeal period, and the appeal period in these cases runs from the date of sentence.

The Committee undertook a review of Rule 708 (Violation of Probation, Intermediate Punishment, or Parole: Hearing and Disposition) in view of several inquiries the Committee has received concerning the distinction between the times for appeal under Rule 708 and Rule 720 (Post-Sentence Procedures; Appeal). Because Rule 720 provides that the appeal period runs from the date of the disposition of the post-sentence motion, Rule 720(A)(2), some judges and attorneys assume the same time for appeal applies when a motion to modify sentence is filed under Rule 708. Although the case law is clear that this construction of the appeal time in Rule 708 is not correct, and the appeal in a Rule 708 case runs from the date of the sentence, the Committee agreed the confusion arises because Rule 708 does not expressly address this issue.

After a thorough review of the matter, the Committee concluded that Rule 708 should be amended because (1) the sanction for failure to timely file the appeal in a Rule 708 case is so severe, and (2) the confusion may be attributed to Rule 708's silence. Accordingly, Rule 708 has been amended by adding "the filing of a motion to modify sentence will not toll the 30-day appeal period" as the second sentence of paragraph (D) (Motion to Modify Sentence). In addition, as an aid to the bar, we are proposing that the Rule 708 Comment be revised by adding a paragraph elaborating the rule change and cross-referencing *Commonwealth v. Coleman*, 721 A.2d 798 (Pa. Super. 1998), and Pa.R.A.P. 1701(b)(3), which address this issue.

[Pa.B. Doc. No. 02-417. Filed for public inspection March 15, 2002, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT**Notice of Suspension**

Notice is hereby given that Thomas R. Hendershot having been suspended indefinitely from the practice of law in the State of Maryland, the Supreme Court of Pennsylvania issued an Order dated February 28, 2002 suspending Thomas R. Hendershot from the practice of law in this Commonwealth consistent with the Order of

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

the Court of Appeals of Maryland dated October 12, 2000. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 02-418. Filed for public inspection March 15, 2002, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CHS. 71 AND 171]

School Buses

The Department of Transportation (Department), Bureau of Driver Licensing, under the authority contained in 75 Pa.C.S. §§ 1504, 1508, 1509, 4551—4553 and 6103, proposes to amend Chapters 71 and 171 (relating to school bus drivers; and school buses and school vehicles) to read as set forth in Annex A.

Purpose

The purpose of Chapter 71 is to set forth the course instruction and physical examination requirements for school bus drivers under 75 Pa.C.S. § 1509 (relating to qualifications for school bus driver endorsement). The purpose of Chapter 171 is to set forth equipment and safety requirements for school buses as provided for in 75 Pa.C.S. § 4552 (relating to general requirements for school buses) and for other vehicles transporting school children as provided for in 75 Pa.C.S. § 4553 (relating to general requirements for other vehicles transporting school children).

Purpose of the Proposed Amendments

The purpose of the proposed amendments to Chapter 71 is to establish criteria under which individuals with certain medical conditions may nevertheless qualify to be issued a school bus driver endorsement to their licenses. The purpose of the proposed amendments to Chapter 171 is to: 1) conform the regulations in this chapter to the provisions of 75 Pa.C.S. § 4552; 2) clarify existing provisions of the regulations; and 3) address concerns raised by the Pupil Transportation Advisory Committee (PTAC). The 27 members of the PTAC represent various groups and associations responsible for, or concerned with, pupil transportation.

The Department proposes to amend § 71.3 (relating to physical examination) by adding explicit criteria under which an individual diagnosed with a missing limb, diabetes, heart disease or a seizure disorder may nevertheless qualify for a waiver and receive the school bus driver endorsement. The proposed amendment clarifies that these medical conditions need not be an absolute bar to qualification to drive a school bus and sets forth in considerable detail the conditions under which an individual with these medical conditions may be granted the school bus driver endorsement.

The Department proposes changes to nine sections within Chapter 171.

Section 171.21(i) (relating to exhaust system) has been amended to specify that school bus exhaust systems shall discharge at the outside edge of the school bus body. This proposed amendment is appropriate to guard against the possibility of exhaust fumes discharging under the bus body and entering the school bus.

Section 171.47 (relating to color) has been amended by adding language that will permit the school bus roof to be painted white to reflect the sun, reducing heat and providing more comfortable transportation for the occupants. Limitation of the use of white to the roof area preserves the overall standard yellow color of the bus and

raises no safety concerns. In addition, the proposed amendment creates additional options when using reflective tape. In the current regulation, the use of reflective tape is optional. However, if it is used in any of the listed locations on the bus, the regulation requires that it be used in all of the locations. The cost of applying and maintaining reflective tape in all the listed locations on the bus has dissuaded many from using any reflective tape. It is believed that with deletion of the mandate that tape be used in all locations, more school districts and contractors will use reflective tape in some of the listed locations.

Section 171.50(a)(9) (relating to doors and emergency exits) has been eliminated. The language regarding supplemental security locks on service doors is unnecessary. The same language was added to mandate the use of an audiovisual alarm on the emergency exits in § 171.50(b)(1)(xii). An audiovisual alarm must be installed on the supplemental security locks on the emergency exits. The alarm must be in the driver's compartment.

Sections 171.52(b), 171.123(b) and 171.133(b) (relating to first aid) have been amended to adjust the amount and types of materials the kits must contain. The size of the kits have been adjusted to be consistent with the National Standards for School Transportation (National standards). The inclusion of latex surgical gloves and adhesive tape has been eliminated because some children have violent allergic reactions to latex materials. Additionally §§ 171.52(d), 171.123(d) and 171.133(d) have been added to allow the surgical gloves and mouth barrier to be placed in either the first aid or body fluid clean-up kit. Some school transportation directors have had difficulty fitting these items into the first aid kit.

Section 171.55 (relating to identification) has been amended to permit yellow identification numbers to be used on the black bumpers of school buses with rounded fronts, to increase the lettering height, and to clarify the meaning of "below the window line" for school district or contractor identification, as well as to comply with 49 CFR 390.21 (relating to marking of CMVs), concerning interstate travel for PUC-regulated commercial vehicles. It is difficult for school buses with rounded fronts to display the required identification numbers. By allowing them to display a yellow number on their black bumpers, the identification number will be easier to place and see. The proposed amendment to § 171.55(c) clarifies how far "below the window line" the school district or contractor identification may be placed. The new language states the identification should be as close as practical to the bottom ledge of the bottom window sash. Additionally, some school districts and contractors requested the allowance of larger identification lettering. The permitted height of the letters will be increased from 6 to 8 inches. Section 171.55(c) is amended to require that school buses must display any other markings required of a commercial vehicle. This will allow them to conform to 49 CFR 390.21.

Section 171.59(b)(2)(x) (relating to lamps and signals) has been amended for clarification. This section will now read clearly that an audio alarm must be activated when the device installed to prevent the automatic extension of the stop arm when the bus is not being used for pupil transportation is engaged.

Section 171.74a (relating to crossing control arm) has been added to regulate the type and use of crossing control arms which were mandated in the act of December 21, 1998 (P.L. 1126, No. 151). This device, which extends approximately 6 feet from the front of the school bus, will force children to walk at least 6 feet in front of the front bumper where the school bus driver is able to see the children and know when they are safely across the street. Over the past 20 years, 243 children have died after being hit by their own school bus. This device greatly enhances the safety of school children entering and exiting the school bus.

Section 171.104(1) (relating to the special service entrance doors) has been amended to conform to the language used in the National standards. This language, allowing either a single or double door, simplifies the current language without changing the meaning.

Persons and Entities Affected

The proposed amendments affect persons and entities responsible for the transportation of school children. This includes all 501 school districts and any organization they may contract to provide pupil transportation. In addition, the State Police will be affected when conducting school bus vehicle inspections.

Fiscal Impact

The proposed amendments will not impose any increased costs on private persons, State or local governments. The proposed amendments will not occasion the development of any additional reports or other paperwork requirements.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 5, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Transportation Committees. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department by May 16, 2002. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of objections raised.

Sunset Date

The Department is not establishing a sunset date for these proposed amendments since these regulations are needed to administer provisions required under the 75 Pa.C.S. (relating to Vehicle Code). The Department will, however, continue to closely monitor these regulations for their effectiveness.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Rebecca L. Bickley, Director, Bureau of Driver Licensing, Riverfront Office Center, 1101 South

Front Street, 4th Floor, Harrisburg, PA 17104, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

Contact Person

The contact person for technical questions related to the proposed amendments is Chris Ann Miller, Manager, Special Driver Programs, Department of Transportation, Bureau of Driver Licensing, Riverfront Office Center, 1101 South Front Street, 3rd Floor, Harrisburg, PA 17104, (717) 772-2117.

BRADLEY L. MALLORY,
Secretary

Fiscal Note: 18-372. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 71. SCHOOL BUS DRIVERS

§ 71.1. Scope and application.

This chapter applies to the course of instruction and physical examination for school bus drivers required by 75 Pa.C.S. § 1509 (relating to qualifications for [**class 4 license**] **school bus driver endorsement**).

§ 71.3. Physical examination.

* * * * *

(b) *Requirements of physical examination.* A person is physically qualified to drive a school bus if the person:

* * * * *

(2) Has no loss of a foot, a leg, a hand, or an arm; **or has been granted a waiver by the Department after competency has been demonstrated through a driving examination.**

* * * * *

(4) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring use of insulin or other hypoglycemic medication.

(i) A waiver may be granted to an individual requiring the use of oral hypoglycemic medication provided:

(A) The individual's physician verifies in writing that there has been no incident of hypoglycemic reaction for the preceding 2 years.

(B) The individual submits to a diabetic examination every 6 months and submits the results of the examination on a form provided by the Department.

(ii) A waiver may be granted to a person requiring the use of insulin provided:

(A) The person's physician verifies in writing to the Department that there has been no incident of hypoglycemic or hyperglycemic reaction and the person has been free from insulin reaction (including loss of consciousness, attention or awareness) or the requirement of assistance from another person, for the preceding 2 years.

(B) The person submits to a diabetic examination every 6 months, including a Hemoglobin A1C, and

to a review of the prior 6-month history of blood glucose monitoring. The physician conducting the diabetic examination shall be familiar with the person's past diabetic history for 24 months or have access to that history.

(C) The person, upon hire by a school district to drive a school bus, shall demonstrate his willingness to manage his diabetes by complying with the following requirements:

(I) Self-monitoring blood glucose 1 hour before driving, and at least every 4 hours while driving or while otherwise on duty, by using a portable blood glucose monitoring device with a computerized memory. If blood glucose is below 80 or above 350 the person may not drive until he takes appropriate measures and retests within this acceptable range.

(II) Monthly submitting the results of blood glucose self-monitoring for review by a physician, certified nurse practitioner, physician's assistant, registered nurse or other health care provider selected by the school district. The results also shall be submitted to the physician conducting the 6-month diabetic examination required by subclause (B).

(III) Maintaining a manual blood glucose monitoring log and submitting it, together with the glucose monitoring device's computerized log, every 6 months to the physician conducting the person's 6-month diabetic examination.

(IV) Having in his possession a source of rapidly absorbable glucose at all times while driving a school bus.

(iii) A reviewing physician finding that a person previously qualified for a waiver is not complying with the requirements listed in subparagraph (ii)(C) or is otherwise no longer qualified for the waiver shall report these findings to the Department and the waiver will be rescinded.

(iv) If a person requiring the use of oral hypoglycemic medication or a person requiring the use of insulin does not qualify for a waiver, that person may request an independent review of his medical records. The review will be conducted by a member of the Medical Advisory Board or by another physician designated by the Department.

(v) Submissions to the Department by physicians or other health care providers, including physician verifications and the results of diabetic examinations, shall be made on forms provided by the Department.

(5) Has no established medical history or clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency[,] or pacemaker insertion.

(i) Waivers may be granted to those individuals with a history of coronary artery disease, previous myocardial infarction, congenital heart defects, cardiomyopathy, pericarditis, myocarditis, chronic atrial flutter/fibrillation or valvular heart disease, and individuals who have undergone corrective surgery for congenital heart defects, coronary angioplasty, valve repair/replacement, coronary artery bypass graft surgery, or ablative surgery for paroxysmal supraventricular arrhythmias, if the individual annually meets the following criteria:

(A) The individual is asymptomatic from the disorder or is receiving medication used to treat the disorder and is asymptomatic on medication.

(B) The individual completes 7 METS on a treadmill stress EKG test preferably following the Bruce or Balke Protocols and achieves 85% of the predicted maximal heart rate without symptoms or EKG changes. If the resting EKG is abnormal, or the individual is on digoxin, then a stress thallium test should be performed.

(C) An echo, gated blood pool scan or left ventriculogram performed on the individual measures a left ventricular ejection fraction of 40% or greater.

(ii) In the case of a permanent pacemaker insertion, the individual shall be 2 months post insertion, asymptomatic and demonstrate that he is undergoing regular pacemaker follow up.

(iii) In the case of chronic atrial flutter/fibrillation, the individual shall be on anticoagulant therapy with aspirin or Coumadin and demonstrate adequate rate control when exercising on a treadmill as listed in subparagraph (i)(B).

(iv) No waivers may be granted to individuals:

(A) Diagnosed with symptomatic coronary artery disease (angina), cardiomyopathy, pericarditis, myocarditis, congenital or valvular heart disease.

(B) Within 2 months of a myocardial infarction, open heart surgery or pacemaker insertion.

(C) Implanted with an automatic cardioverter/defibrillators or antitachycardic device.

(D) With any history of ventricular tachycardia (excluding couplets and triplets), ventricular fibrillation or sudden cardiac death with successful resuscitation.

(E) With any history of paroxysmal supraventricular tachycardia.

(F) With any history of carotid sinus hypersensitivity, sick sinus syndrome, second degree heart block or third degree heart block unless a pacemaker has been inserted.

* * * * *

(10) Has no established medical history or clinical diagnosis of seizure disorders or another condition likely to cause loss or impairment of consciousness or loss of ability to drive a school bus safely.

(i) A waiver may be granted to persons described in this paragraph provided:

(A) There has been no more than a single, nonrecurring episode of altered consciousness or loss of bodily control, occurring at least 2 years preceding application, which did not require treatment.

(B) A seizure disorder has been diagnosed, but the person has been episode-free for at least 5 years preceding application and has not required treatment for at least 5 years preceding application.

* * * * *

ARTICLE VII. VEHICLE CHARACTERISTICS
CHAPTER 171. SCHOOL BUS AND SCHOOL
VEHICLES

Subchapter B. SCHOOL BUS CHASSIS
STANDARDS

§ 171.21. Exhaust system.

* * * * *

(i) *Exhaust system and discharge location.* Exhaust systems are not permitted to discharge to the atmosphere at a location immediately below the fuel tank or the fuel tank filler pipe. **Exhaust systems shall also extend and discharge completely to the outside edge of the vehicle body.**

Subchapter C. SCHOOL BUS BODY STANDARDS

§ 171.47. Color.

The requirements for the color of school bus bodies are as follows:

* * * * *

(2) **The roof of the school bus may be painted white.**

(3) The body exterior trim may be painted black. The bumper and exterior mirrors shall be painted black.

[(3)] (4) If a school bus is equipped with reflective material, other than that required under §§ 171.50 and 171.59 (relating to doors and emergency exits; and lamps and signals), the reflective material shall be of automotive engineering grade or better. If additional reflective materials and markings are used, they **[shall] may** be applied as follows:

* * * * *

§ 171.50. Doors and emergency exits.

(a) *Service doors.* The requirements for service doors are as follows:

* * * * *

[(9) Supplemental security locks installed on service doors shall be equipped with an ignition interlock system or an audiovisual alarm located in the driver's compartment.]

(b) *Emergency exits.* Each school bus shall comply with FMVSS No. 217. See Appendix A. The area of square centimeters of the unobstructed openings for emergency exits shall collectively amount to at least 432 times the number of designated seating positions in the bus. The area of an opening equipped with a wheel chair lift is counted toward meeting additional emergency exit area requirements only if the lift is designed to be folded or stored so that the area is available for use by persons not needing the lift.

(1) The requirements for emergency exit doors are as follows:

* * * * *

(xii) Supplemental security locks installed on emergency doors shall be equipped with an audiovisual alarm located in the driver's compartment.

* * * * *

§ 171.52. First aid.

(a) *First aid kit.* Every school bus shall have a removable moisture and **[dustproof] dust proof** first aid kit, mounted in an accessible place within the driver's com-

partment. The first aid kit shall be mounted as directed by the manufacturer. The first aid kit shall be labeled and visible to the driver or its location shall be marked.

(b) *Content.* The first aid kit shall contain, at a minimum, the following items:

(1) Two 1 inch × 2-1/2-yards **rolls of nonlatex adhesive tape [rolls]**.

* * * * *

(4) **[Twelve] Eight 2-inch bandage compresses.**

(5) **[Twelve] Ten 3-inch bandage compresses.**

* * * * *

[(11) One pair latex gloves.

(12) One mouth barrier.]

* * * * *

(d) Surgical gloves and mouth barriers. Either the first aid kit or the body fluid cleanup kit shall contain:

(1) **One pair of nonlatex surgical gloves.**

(2) **One mouth barrier.**

§ 171.55. Identification.

* * * * *

(b) *Identification number.* Every school bus shall display an identification number consisting of no more than 4 black numbers, letters or a combination of numbers and letters. The numbers or letters shall be a minimum 5 inches in height and shall be displayed in a prominent location on the front, rear and on both sides of the bus. **On a school bus with a rounded front, the identification number displayed on the front of the bus may be displayed on the front bumper in yellow numbers, letters, or a combination of numbers and letters, in lieu of black numbers, letters, or a combination of numbers and letters on the front of the bus body.**

(c) *Additional markings.* School buses shall have the name of the school district, private or parochial school, or school bus contractor clearly visible, lettered on each side of the school bus body **[, below the window line] in the upper body belt band area as close as practical to the bottom ledge of the bottom window sash** in letters of not less than 4 inches, and not more than **[6] 8** inches in height. Lettering shall be in black or National School Bus Yellow, depending on the contrasting background color. See Appendix B. Other signs or lettering are not permitted, except the bus contractor may have his name or the name of the company in letters no larger than 3 inches in height, or the dealer identification insignia may be displayed in an area not to exceed 6 inches in height by 12 inches in width to the rear of the front entrance at the lowest possible point. Pennsylvania Public Utility Commission and Interstate Commerce Commission certification numbers, **and any other required commercial vehicle markings** may be displayed.

* * * * *

§ 171.59. Lamps and signals.

* * * * *

(b) *Flashing signal lamps and stop signal arm devices.* The requirements for flashing signal lamps and stop signal arm devices are as follows:

* * * * *

(2) *Stop signal arm devices.* Stop signal arm devices on school buses shall comply with FMVSS No. 131—See Appendix A—and the following requirements:

* * * * *

(x) The stop signal arm shall be automatically extended so that it complies with subparagraph (viii), at a minimum, whenever the red signal lamps required by FMVSS No. 108, S 5.1.4—See Appendix A—are activated; except that a device may be installed that prevents the automatic extension of a stop signal arm. The mechanism for activating the device shall be within the reach of the driver. While the device **preventing automatic extension** is activated, a continuous or intermittent signal audible to the driver shall sound. The audible signal may be equipped with a timing device **[requiring] but shall require** the signal to sound for at least 60 seconds. If a timing device is used, it shall automatically recycle each time the service entry door is opened while the engine is running and the manual override is engaged.

* * * * *

§ 171.74a. Crossing control arm.

School buses shall be equipped with a crossing control arm.

(1) The crossing control arm shall meet or exceed SAE Standard J1133.

(2) The crossing control arm shall be mounted on the right side of the front bumper and may not open more than 90°.

(3) The crossing control arm shall extend approximately 72 inches from the front bumper when in the extended position.

(4) The crossing control arm shall extend simultaneously with the stop arm by means of the stop arm controls.

(5) The crossing control arm shall incorporate system connectors (electrical, vacuum or air) at the gate and shall be easily removable to allow for towing of the school bus.

(6) All components of the crossing control arm and all connections shall be waterproofed.

(7) If the crossing control arm is not constructed of noncorrosive or nonferrous material, it shall be zinc-coated or aluminum-coated or treated by equivalent process.

(8) There may not be sharp edges or projections on the crossing control arm that could cause hazard or injury to students.

Subchapter D. SPECIALLY EQUIPPED SCHOOL BUS STANDARDS

§ 171.104. Special service entrance doors.

The requirements for special service entrance doors are as follows:

(1) **[A single door may be used if the width of the door opening does not exceed 40 inches.**

(2) Two doors shall be used if a single door opening exceeds 40 inches. **] Either a single door or double doors may be used for the special service entrance.**

[(3)] (2) * * *

[(4)] (3) * * *

[(5)] (4) * * *

[(6)] (5) * * *

[(7)] (6) * * *

[(8)] (7) * * *

[(9)] (8) * * *

[(10)] (9) * * *

[(11)] (10) * * *

[(12)] (11) * * *

Subchapter E. SCHOOL VEHICLE STANDARDS

§ 171.123. First aid.

(a) *Required.* Every vehicle shall have a removable moisture and **[dustproof] dust proof** first aid kit mounted in an accessible place within the driver's compartment. The first aid kit shall be mounted as directed by the manufacturer. The first aid kit shall be labeled and securely placed or mounted in an easily accessible location.

(b) *Content.* The first aid kit shall contain, at a minimum, the following items:

(1) **[Two] One** 1 inch × 2-1/2 yards **rolls of non-latex** adhesive tape **[rolls]**.

(2) **[Twenty-four] One package** sterile gauze pads, 3 inches × 3 inches.

(3) **[One hundred] One package** 3/4-inch × 3 inches adhesive bandages.

(4) **[Twelve] One package** 2 inch bandage compresses.

(5) **[Twelve] One package** 3 inch bandage compresses.

(6) **[Two] One** 2 inch × 6 yards sterile gauze roller **[bandages] bandage**.

(7) **[Two] One** nonsterile triangular bandage approximately 40 inches × 36 inches × 54 inches with **[2] two** safety pins.

(8) **[Three] One package** sterile gauze pads, 36 inches × 36 inches (U.S.P. 2423 count).

(9) **[Three] One** sterile eye **[pads] pad**.

* * * * *

[(11) One pair latex gloves.

(12) One mouth barrier.]

* * * * *

(d) *Surgical gloves and mouth barriers.* Either the first aid kit or the body fluid cleanup kit shall contain:

(1) One pair of nonlatex surgical gloves.

(2) One mouth barrier.

Subchapter F. MASS TRANSIT PUPIL TRANSPORTATION BUS STANDARDS

§ 171.133. First aid.

(a) *First aid kit.* Every mass transit pupil transportation bus shall have a removable moisture and **[dustproof] dust proof** first aid kit mounted in an accessible place within the driver's compartment. The first aid kit shall be mounted as directed by the manufacturer. The first aid kit shall be labeled and visible to the driver or its location shall be marked.

(b) *Content.* The first aid kit shall contain, at a minimum, the following items:

(1) Two 1 inch × 2-1/2 yards **rolls of nonlatex** adhesive tape **[rolls]**.

* * * * *

(4) **[Twelve] Eight** 2 inch bandage compresses.

(5) **[Twelve] Ten** 3 inch bandage compresses.

* * * * *

[(11) One pair latex gloves.]

[(12) One mouth barrier.]

* * * * *

(d) *Surgical gloves and mouth barriers.* **Either the first aid kit or the body fluid cleanup kit shall contain:**

(1) One pair of nonlatex surgical gloves.

(2) One mouth barrier.

[Pa.B. Doc. No. 02-419. Filed for public inspection March 15, 2002, 9:00 a.m.]

GAME COMMISSION

[58 PA.CODE CH. 139]

Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its January 15, 2002, meeting, proposed the following amendments:

Amend § 139.4 (relating to seasons and bag limits for the license year) to provide dates for the 2002-2003 hunting license year.

This amendment will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposal is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposal was made public at the January 15, 2002, meeting of the Commission, and comments on this proposal can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until March 29, 2002.

1. Introduction

The Commission is proposing amendments to § 139.4 to provide for seasons and bag limits for the 2002-2003 license year. These seasons and bag limits were proposed

under sections 322(c)(1) and 2102(b)(1) of the code (relating to powers and duties of commission; and regulations). Major changes for the 2002-2003 year include a new ringneck pheasant season for eligible junior hunters only; eligible junior hunters only will be able to take an antlerless deer with their general license tag in any antlerless deer season; an antler size restriction on antlered deer; and a separate additional bear season for the counties of Carbon, Monroe and Pike.

2. Purpose and Authority

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Section 322(c) of the code specifically empowers the Commission to "... fix seasons ... and daily season and possession limits for any species of game or wildlife." Section 2102(b) of the code mandates that the Commission promulgate regulations relating to seasons and bag limits.

Major changes that have been proposed for the 2002-2003 season are primarily intended to increase the hunting opportunities for eligible junior hunters, decrease the harvest of antlered deer while encouraging the harvest of antlerless deer and decrease the amount of damage caused by bears in the counties of Carbon, Monroe and Pike. Major changes are as follows:

1. A concurrent antlered and antlerless deer season will continue to encourage the harvesting of antlerless deer while a size limitation on the antlers of antlered deer that can be legally harvested should discourage the harvesting of antlered deer. There will be an early muzzleloader season which may allow the use of any muzzleloading long gun if follow-up amendments are adopted.

2. Junior hunters will be given increased opportunities by way of a separate ringneck pheasant hunting season and the ability to harvest an antlerless deer with their general hunting tag during any antlerless deer season.

3. There will be an additional separate 6 day bear season in Carbon, Monroe and Pike Counties to try to reduce the population and, as a result, the damage caused by bears.

4. A week has been added to the fall turkey season in Turkey Management Area #7-A.

3. Regulatory Requirements

These proposed seasons and bag limits would establish when and where it is lawful to hunt and trap various game species and place limits on the numbers that can be legally taken.

4. Persons Affected

Persons wishing to hunt and trap in this Commonwealth would be affected by these seasons and bag limits.

5. Cost and Paperwork Requirements

The proposed new seasons and bag limits would not result in any additional cost either to the Commission or to hunters and furtakers.

6. Effective Dates

The effective dates are July 1, 2002, to June 30, 2003.

7. *Contact Person*

For further information regarding these changes, contact David E. Overcash, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-138. No fiscal impact; (8) recommends adoption.

(Editor's Note: The Commission is proposing to delete the current version of § 139.4 as it appears at *Pennsylvania Code* pages 139-3 to 139-11 (serial pages (280063) to (280071)) and replace it with the version that follows.)

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

§ 139.4. Seasons and bag limits for the license year.

2002-2003 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT,
FIELD POSSESSION LIMIT AND SEASON LIMIT

OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED

<i>Species</i>	<i>Limit</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrels—(Combined species) Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law		Oct. 12	Oct. 14	6	12
Squirrels—(Combined species)		Oct. 19 and Dec. 16 and Dec. 26	Nov. 30 and Dec. 24 and Feb. 8, 2003	6	12
Ruffed Grouse—(Statewide)		Oct. 19 and Dec. 16 and Dec. 26	Nov. 30 and Dec. 24 and Jan. 11, 2003	2	4
Ruffed Grouse—There is no open season for taking ruffed grouse in that portion of State Game Lands No. 176 in Centre County which is posted "RESEARCH AREA—NO GROUSE HUNTING"					
Rabbits, Cottontail		Nov. 2 and Dec. 16 and Dec. 26	Nov. 30 and Dec. 24 and Feb. 8, 2003	4	8
Ringneck Pheasant—Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law		Oct. 12	Oct. 14	2	2
Ringneck Pheasant—Male only		Nov. 2	Nov. 30	2	4
Ringneck Pheasant—Male or female combined when hunting in designated hen shooting area		Nov. 2 and Dec. 16 and Dec. 26	Nov. 30 and Dec. 24 and Feb. 8, 2003	2	4

<i>Species</i>	<i>Limit</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all counties except Adams, Chester, Cumberland, Dauphin, Delaware, Franklin, Fulton, Juniata, Lancaster, Lebanon, Perry, Snyder and York where the season is closed.		Nov. 2	Nov. 30	4	8
Hares (Snowshoe Rabbits) or Varying Hares		Dec. 26	Jan. 1, 2003	1	2
Woodchucks (Groundhog)		No closed season except during the antlered and antlerless deer season and until 12 noon daily during the spring gobbler turkey season		Unlimited	
<i>Species</i>		<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey—Male or Female				1	1
Management Areas #1-A, 2, 3, 4, 5, 6, 7-A & 8		Nov. 2	Nov. 23		
Management Area #1-B		Nov. 2	Nov. 16		
Management Area #7-B		Nov. 4	Nov. 9		
Management Area #9-A		Closed to fall turkey hunting			
Management Area #9-B		Nov. 2	Nov. 9		
Turkey (Spring Gobbler) Statewide Bearded Bird only		April 26, 2003	May 24, 2003	1	1

MIGRATORY GAME BIRDS

Except as further restricted by this chapter, the seasons, bag limits, hunting hours and hunting regulations for migratory game birds shall conform to regulations adopted by the United States Secretary of the Interior under authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—711) as published in the *Federal Register* on or about August 27 and September 28 of each year. Exceptions:

- (a) Hunting hours in § 141.4 (relating to hunting hours).
- (b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.
- (c) Subject to approval by the United States Fish and Wildlife Service, an early and late season for Canada geese will be held as defined in § 141.25.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Crows (Hunting permitted on Friday, Saturday and Sunday only)	July 5 and Dec. 27	Dec. 1 April 6, 2003	Unlimited	
Starlings and English Sparrows	No closed season except during the antlered and antlerless deer seasons and until 12 noon daily during the spring gobbler turkey season		Unlimited	

FALCONRY

Squirrels—(Combined species)	Sept. 1	Mar. 31, 2003	6	12
Quail	Sept. 1	Mar. 31, 2003	4	8

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Ruffed Grouse	Sept. 1	Mar. 31, 2003	2	4
Cottontail Rabbits	Sept. 1	Mar. 31, 2003	4	8
Snowshoe or Varying Hare	Sept. 1	Mar. 31, 2003	1	2
Ringneck Pheasant—Male and Female— (Combined)	Sept. 1	Mar. 31, 2003	2	4

Migratory Game Birds—Seasons and bag limits shall be in accordance with Federal regulations.

DEER

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>	<i>Field Possession Limit</i>
Deer, Antlered—(Statewide) ¹ (Archery—Bows and Arrows Only)	Oct. 5 and Dec. 26	Nov. 16 Jan. 11, 2003	1	One antlered.
Deer, Antlerless—(Statewide) (Archery—Bows and Arrows Only)	Oct. 5 and Dec. 26	Nov. 16 Jan. 11, 2003	An antlerless deer ⁴ with each required and antlerless license.	Field Possession Limit
Deer, Regular Antlered—(Statewide) ¹	Dec. 2	Dec. 14	1	One antlered.
Deer, Antlerless only—(Statewide) Only Junior and Senior License Holders, ² Disabled Person Permit (to use a vehicle) Holders and Residents serving on active duty in the U.S. Armed Forces, or in the U.S. Coast Guard, with required antlerless license	Oct. 24	Oct. 26	An antlerless deer ⁴ with each required antlerless license	
Deer, Regular Antlerless—(Statewide)	Dec. 2	Dec. 14	An antlerless deer ⁴ with each required antlerless license.	
Deer, Antlerless only—(Statewide) (Any muzzleloading long gun) ⁶	Oct. 19	Oct. 26	An antlerless deer with each required antlerless license.	
Deer, Antlered or Antlerless—(Statewide) ¹ (Flintlock Muzzleloading firearms only)	Dec. 26	Jan. 11, 2003	One antlered, or one antlerless—plus an additional antlerless deer with each required antlerless license.	
Deer, Antlerless (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Detrick, Raven Rock Site, Adams County)	Hunting is permitted on days established by the United States Department of the Army.		An antlerless deer ⁴ with each required antlerless license.	

SPECIAL REGULATIONS AREAS SOUTHEASTERN PENNSYLVANIA AND ALLEGHENY COUNTY

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>	<i>Field Possession Limit</i>
Deer, Antlered ¹ (Archery—Bows and Arrows Only)	Oct. 5 and Dec. 26	Nov. 16 Jan. 11, 2003	1	One antlered.
Deer, Antlerless (Archery—Bows and Arrows Only)	Oct. 5 and Dec. 26	Nov. 16 Jan. 11, 2003	An antlerless deer ⁴ with each required antlerless license.	

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>	<i>Field Possession Limit</i>
Deer, Regular Antlered ¹	Dec. 2	Dec. 14	1	One antlered.
Deer, Regular Antlerless	Dec. 2 and Dec. 26	Dec. 14 Jan. 11, 2003	An antlerless deer ⁴ with each required antlerless license.	

BEAR

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Possession Limit</i>
Bear, any age—(Statewide) ⁵	Nov. 25	Nov. 27	1	1
Bear, any age ⁵ (Carbon, Monroe and Pike Counties)	Dec. 2	Dec. 7	1	1

ELK

Elk, Antlered	Nov. 18	Nov. 23	1	1
Elk, Antlerless Species	Nov. 18 First Day	Nov. 23 Last Day	1 Daily Limit	1 Season Possession Limit

FUR TAKING—TRAPPING

Minks and Muskrats—(Statewide)	Nov. 23	Jan. 11, 2003	Unlimited	
Beaver—(Statewide)	Dec. 26	Mar. 31, 2003		
Zones 1 & 2 (except McKean, Potter and Tioga Counties)			20	20
Zone 2 McKean, Potter and Tioga Counties			20	40
Zone 3			20	40
Zones 4 & 5			10	10
Zone 6			6	6
Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—(Statewide)	Oct. 20	Feb. 22, 2003	Unlimited	
Bobcat (Zones 2 & 3) ³	Oct. 20	Feb. 22, 2003	1	1

FUR TAKING—HUNTING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Coyotes—(Statewide)	No closed season. Coyotes may be taken from the first day to the last day inclusive of any deer or bear season only by persons lawfully engaged in hunting deer or bear and have a valid tag, or during the spring gobbler turkey season by persons who have a valid spring turkey tag and meet fluorescent orange and shot size requirements.		Unlimited	

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Opossums, Skunks, Weasels—(Statewide)	No closed season. These species may not be hunted prior to 12 noon during the spring gobbler turkey season.			
Raccoons and Foxes—(Statewide)	Oct. 19	Feb. 22, 2003	Unlimited	
Bobcat (Zones 2 & 3) ³	Oct. 19	Feb. 22, 2003	1	1
No open seasons on other wild birds or wild mammals.				

¹ Only one antlered deer (buck) may be taken during the hunting license year.

² Includes persons who have reached or will reach their 65th birthday in the year of the application for the license and hold a valid adult license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

³ Bobcat may only be taken by furtakers in possession of a Bobcat Hunting-Trapping Permit.

⁴ Properly licensed junior hunters may use their general license tag as an antlerless tag Statewide.

⁵ Only one bear may be taken during the hunting license year.

⁶ Subject to the provisions of § 141.43 (relating to deer).

[Pa.B. Doc. No. 02-420. Filed for public inspection March 15, 2002, 9:00 a.m.]

INSURANCE DEPARTMENT

[31 PA. CODE CH. 146b]

Privacy of Consumer Health Information

The Insurance Department (Department) proposes to adopt Chapter 146b (relating to privacy of consumer health information) to read as set forth in Annex A. The proposed rulemaking is made under the general rule-making authority of sections 205, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) and under the guidance of section 648 of the Insurance Department Act of 1921 (40 P. S. § 288) (Act 40). Likewise, the proposed rulemaking is made under the Department's rulemaking authority under the Unfair Insurance Practices Act (act) (40 P. S. §§ 1171.1—1171.14) (the authority is further explained in *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977)), because the Insurance Commissioner has determined that the improper disclosure or marketing, or both, of nonpublic personal health information by members of the insurance industry constitutes an unfair method of competition and an unfair or deceptive act or practice.

Purpose

The purpose of this proposed rulemaking is to adopt Chapter 146b to implement the privacy requirements for nonpublic health information in the National Association of Insurance Commissioners Model Privacy of Consumer Financial and Health Information Regulation (NAIC Model). The privacy requirements for nonpublic financial information in the NAIC Model were promulgated in final-form at 31 Pa.B. 4426 (August 11, 2001) to comply with the requirements in Title V of the act of November 12, 1999 (Pub. L. No. 106-102, 113 Stat. 1338) known as the Gramm-Leach-Bliley Act (GLBA) (15 U.S.C.A. §§ 6801—6827).

Background

This proposed rulemaking is modeled from the health information privacy sections of the NAIC Model. For purposes of this proposed rulemaking, the Department will make available a copy of the NAIC Model to the Standing Committees of the Senate and the House and to

the Independent Regulatory Review Commission (IRRC). Otherwise, this material is copyrighted and is available from the NAIC upon request. For further information, see the NAIC website at <http://www.naic.org>. In general, the NAIC Model requires that insurance entities obtain the authorization of a consumer before disclosing nonpublic personal health information relating to that consumer. The Department has chosen to implement the NAIC Model to achieve a level of uniformity among the states because a majority of the states have committed to implementing the NAIC Model, including its health information privacy provisions.

For these reasons, the Department has attempted to implement the health information privacy provisions of the NAIC Model as closely as possible. However, because the Department is promulgating the health information privacy provisions in the NAIC Model separately from the financial privacy requirements and because the Department believed that additional consumer protections were necessary, this proposed rulemaking includes several variations from the NAIC Model. For example, in § 146b.2 (relating to definitions), the Department has modified the definition of "consumer" to include persons that meet the definition of either a "consumer" or a "customer" in the NAIC Model. The NAIC Model distinguishes between these two types of person because each is treated differently with respect to the privacy of their nonpublic personal financial information. However, because there is no distinction between a "consumer" and a "customer" in the NAIC Model's health privacy provisions, and because the Department is promulgating the NAIC Model's health privacy provisions separately from the financial privacy provisions, the distinction is no longer necessary.

The Department has also made two substantive additions to the NAIC Model's health privacy provisions to provide additional protection to consumers' nonpublic personal health information. For example, the Department has limited the disclosure of nonpublic personal health information for the purpose of carrying out one of the "insurance function exceptions" in § 146b.11(b) (relating to authorization required for disclosure of nonpublic personal health information) only "to the extent that the disclosure of nonpublic personal health information is

necessary for the performance” of the insurance function. This language is not found in the NAIC Model. Finally, the Department also included in § 146b.11(c) a requirement that licensees enter into an agreement with a third party to whom the licensee discloses nonpublic personal health information for the purpose of performing one of the insurance function exceptions to preserve the confidentiality of the information.

In addition, this proposed rulemaking is being promulgated to address several segments of the insurance industry that are not subject to the Federal Health Insurance Portability and Accountability Act (Pub. L. No. 104-191, 110 Stat. 1936) privacy regulation (Federal HIPAA privacy regulation) as promulgated by the United States Department of Health and Human Services (HHS) at 45 CFR Parts 160–164. Although certain licensees such as health insurers will be subject to the Federal HIPAA privacy regulation, other licensees such as life insurers and automobile insurance carriers will not be subject to those regulations. Therefore, this proposed rulemaking is needed to provide privacy protections to all insurance consumers of this Commonwealth. Also, this proposed rulemaking is not intended to constitute duplicative regulation of health information privacy for those licensees that are subject to the Federal HIPAA privacy regulation, as evidenced in the “self-preemption” provision in § 146b.21(a) (relating to relationship with other laws). This subsection provides an exemption from the purview of this proposed rulemaking for any licensee that otherwise is compliant with the entire Federal HIPAA privacy regulation.

Preproposal Comments

On August 28, 2001, the Department held an outreach meeting with various trade groups and members of this Commonwealth’s insurance industry that could be affected by this proposed rulemaking. The purpose of the meeting was to discuss an initial draft of the Department’s health information privacy regulation, which included the deviations from the NAIC Model. In conjunction with that meeting, the Department also permitted the meeting attendees to submit written comments relating to the Department’s initial draft of the health information privacy regulation. Written comments were submitted by the following entities and, where applicable, were considered during the design of this proposed rulemaking: the Insurance Federation of Pennsylvania, the Pennsylvania Association of Mutual Insurers, American Family Life Assurance Company of Columbus, Keystone Health Plan Central, Capital Blue Cross, Lucas & McClain, LLP, the Managed Care Association of Pennsylvania, the American Insurance Association, Independence Blue Cross, Highmark, Inc., Pennsylvania Association of Health Underwriters and Alliance of American Insurers. Also, a joint comment was submitted by the Independent Insurance Agents of Pennsylvania and the Pennsylvania Association of Insurance and Financial Advisors.

Copies of the written preproposal comments submitted by these groups are available upon request. The Department has taken these preproposal comments into consideration and, where applicable, the Department made several revisions to its initial draft of the proposed rulemaking based upon those comments for the purpose of this proposed rulemaking.

Explanation of Regulatory Changes

Subchapter A. General provisions.

Section 146b.1 (relating to purpose) contains the purpose and compliance requirements needed to govern the

treatment of nonpublic personal health information about individuals in this Commonwealth by all licensees of the Department.

Section 146b.2 contains the definitions of terms that are used in this chapter.

Subchapter B. Rules for disclosure of nonpublic personal health information.

Section 146b.11 contains the requirement that an authorization from the consumer is required before a licensee may disclose a consumer’s nonpublic personal health information.

Section 146b.12 (relating to authorizations) contains the general requirements for the contents of the authorizations that are required in § 146a.11.

Section 146b.13 (relating to authorization request delivery) describes the appropriate methods for delivery of a request for authorization by a licensee to a consumer.

Subchapter C. Additional provisions.

Section 146b.21 describes the interaction of this proposed rulemaking with other laws of the Commonwealth and the Federal government.

Section 146b.22 (relating to nondiscrimination) provides that a licensee may not unfairly discriminate against a consumer because that consumer has not granted an authorization for the disclosure of nonpublic personal health information.

Section 146b.23 (relating to violation) provides that a contravention of this proposed rulemaking shall be deemed to be an unfair or deceptive act and practice in the conduct of the business of insurance and shall be deemed a violation of the act.

Section 146b.24 (relating to compliance dates) provides that this proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*, and the compliance dates mirror those in the Federal HIPAA privacy regulation.

Fiscal Impact

There will be a fiscal impact as a result of the proposed rulemaking. However, this proposed rulemaking merely fills in any gaps in the insurance industry that are not covered by the Federal HIPAA privacy regulation. Therefore, the adoption of this proposed rulemaking should not have a significant cost impact over what is currently being required by the Federal HIPAA privacy regulation.

Paperwork

Unless specifically executed under the definition of “licensee” in § 146b.2, the proposed rulemaking will affect all licensees doing the business of insurance in this Commonwealth by imposing additional paperwork requirements pertaining to the delivery and treating of opt out notices.

Effectiveness/Sunset Date

The proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*, and the compliance dates mirror those in the Federal HIPAA privacy regulation.

Contact Person

Questions or comments regarding this proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days following the publication of this notice in

the *Pennsylvania Bulletin*. Questions and comments may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 4, 2002, the Department submitted a copy of this proposed rulemaking to IRRC and the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of objections raised.

M. DIANE KOKEN,
Insurance Commissioner

Fiscal Note: 11-209. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART VIII. MISCELLANEOUS PROVISIONS

CHAPTER 146b. PRIVACY OF CONSUMER HEALTH INFORMATION

Subch.

- A. GENERAL PROVISIONS**
- B. RULES FOR DISCLOSURE OF NONPUBLIC PERSONAL HEALTH INFORMATION**
- C. ADDITIONAL PROVISIONS**

Subchapter A. GENERAL PROVISIONS

Sec.

- 146b.1. Purpose.
- 146b.2. Definitions.

§ 146b.1. Purpose.

(a) *Purpose.* This chapter:

(1) Governs the treatment of all nonpublic personal health information about individuals by various licensees of the Department.

(2) Describes the conditions under which a licensee may disclose nonpublic personal health information about consumers to a third party.

(3) Requires licensees to obtain the affirmative consent of consumers prior to disclosing nonpublic personal health information.

(b) *Compliance.* A licensee domiciled in this Commonwealth that is in compliance with this chapter and Chapter 146a (relating to privacy of consumer financial information) in a state that has not enacted laws or regulations that meet the requirements of Title V of the act of November 12, 1999 (Pub. L. No. 106-102, 113 Stat. 1338) known as the Gramm-Leach-Bliley Act (Financial Services Modernization Act of 1999) (15 U.S.C.A.

§§ 6801—827) may nonetheless be deemed to be in compliance with Title V of the Gramm-Leach-Bliley Act in the other state.

(c) *Examples.* The examples provided in this chapter are for illustrative purposes only and do not otherwise limit or restrict the scope of this chapter.

§ 146b.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context requires otherwise:

Act—The Insurance Department Act of 1921 (40 P.S. §§ 1—321).

Commissioner—The Insurance Commissioner of the Commonwealth.

Company—A corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

Consumer—

(i) An individual, or that individual's legal representative, who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal health information. Examples include:

(A) An individual who provides nonpublic personal health information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service, regardless of whether the licensee establishes an ongoing advisory relationship.

(B) An applicant for insurance prior to the inception of insurance coverage.

(C) A beneficiary of a life insurance policy underwritten by the licensee.

(D) A claimant under an insurance policy issued by the licensee.

(E) An insured under an insurance policy or an annuitant under an annuity issued by the licensee.

(F) A mortgagor of a mortgage covered under a mortgage insurance policy.

(G) A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary.

(H) An individual covered under a group or blanket insurance policy or group annuity contract issued by the licensee.

(I) A claimant in a workers' compensation plan.

(ii) Examples of persons who are not consumers are as follows:

(A) An individual is not a consumer solely because the individual is a beneficiary of a trust for which the licensee is a trustee.

(B) An individual is not a consumer solely because the individual has designated the licensee as trustee for a trust.

(C) An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

Department—The Insurance Department of the Commonwealth.

Federal regulation—The Federal Health Insurance Portability and Accountability Act (HIPAA) privacy regulation as promulgated by the United States Department of Health and Human Services at 45 CFR Parts 160—164.

Financial institution—

(i) An institution the business of which is engaging in activities that are financial in nature or incidental to the financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C.A. § 1843(k)).

(ii) The term does not include the following:

(A) A person or entity with respect to a financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C.A. §§ 1—25).

(B) The Federal Agricultural Mortgage Corporation or an entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C.A. §§ 2001—2279cc).

(C) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

Health care—

(i) Preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures, tests or counseling that either:

(A) Relates to the physical, mental or behavioral condition of an individual.

(B) Affects the structure or function of the human body or a part of the human body, including the banking of blood, sperm, organs or other tissue.

(ii) Prescribing, dispensing or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.

Health care provider—A physician or other health care practitioner licensed, accredited or certified to perform specified health services consistent with the laws of the Commonwealth, or a health care facility.

Health information—Information or data except age, gender or nonpublic personal financial information, whether oral or recorded in a form or medium, created by or derived from a health care provider or the consumer that relates to one or more of the following:

(i) The past, present or future physical, mental or behavioral health or condition of an individual.

(ii) The provision of health care to an individual.

(iii) Payment for the provision of health care to an individual.

Insurance product or service—A product or service that is offered by a licensee under the insurance laws of the Commonwealth. Insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

Licensee—

(i) A licensed insurer, as defined in section 201-A of the act (40 P.S. § 65.1-A), a producer and other persons or entities licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered under the act or The Insurance Company Law of 1921 (40 P.S. §§ 361—991.2361), including health maintenance organizations holding a certificate of authority under section 201 of the Health Care Facilities Act (35 P.S. § 448.201).

(ii) The term does not include:

(A) Bail bondsmen as defined in 42 Pa.C.S. § 5741 (relating to definitions).

(B) Motor vehicle physical damage appraisers as defined in section 2 of the Motor Vehicle Physical Damage Appraiser Act (63 P.S. § 852) and § 62.1 (relating to definitions).

(iii) Subject to subparagraph (iv), the term does not include governmental health insurance programs such as the following:

(A) The Children's Health Insurance Program as provided for in the Children's Health Care Act (40 P.S. §§ 991.2301—991.2361).

(B) The Medicaid program as provided for in sections 441.1—453 of the Public Welfare Code (62 P.S. §§ 441.1—453).

(C) The Medicare+Choice program as provided for in the Balanced Budget Act of 1997, sections 1851—1859, Medicare Part C under Title XVIII of the Social Security Act (42 U.S.C.A. §§ 1395w-21—1395w-29).

(D) The Adult Basic Care program as provided for in Act 77 of 2001 (June 26, 2001). See section 1303 of the Tobacco Settlement Act (35 P.S. § 5701.1303).

(iv) The term includes a licensee that enrolls, insures or otherwise provides an insurance related service to participants that procure health insurance through a governmental health insurance program exempted under subparagraph (iii).

(v) Subject to subparagraph (ii), the term "licensee" shall also include a nonadmitted insurer that accepts business placed through a surplus lines licensee (as defined in section 1602 of The Insurance Company Law of 1921 (40 P.S. § 991.1602) (relating to definition of surplus lines licensee)) in this Commonwealth, but only in regard to the surplus lines placements placed under Article XVI of The Insurance Company Law (40 P.S. §§ 991.1601—991.1625).

Nonpublic personal financial information—As defined in § 146a.2 (relating to definitions).

Nonpublic personal health information—

(i) The term means health information that either:

(A) Identifies an individual who is the subject of the information.

(B) There is a reasonable basis to believe could be used to identify an individual.

(ii) The term does not include nonpublic personal financial information.

Producer—An insurance agent or broker licensed or required to be licensed by the Department under the act.

Subchapter B. RULES FOR DISCLOSURE OF NONPUBLIC PERSONAL HEALTH INFORMATION

Sec.

146b.11. Authorization required for disclosure of nonpublic personal health information.

146b.12. Authorizations.

146b.13. Authorization request delivery.

§ 146b.11. Authorization required for disclosure of nonpublic personal health information.

(a) *Authorization required.* A licensee may not disclose nonpublic personal health information about a consumer unless an authorization is obtained from the consumer whose nonpublic personal health information is sought to be disclosed.

(b) *Insurance function exception.* Nothing in this section prohibits, restricts or requires an authorization for the disclosure of nonpublic personal health information by a licensee to the extent that the disclosure of nonpublic personal health information is necessary for the performance of one or more of the following insurance functions by or on behalf of the licensee:

(1) Claims administration, including coordination of benefits and subrogation.

(2) Claims adjustment and management.

(3) Detection, prevention, investigation or reporting of actual or potential fraud, misrepresentation or criminal activity.

(4) Underwriting.

(5) Policy placement or issuance.

(6) Loss control.

(7) Ratemaking and guaranty fund functions.

(8) Reinsurance and excess loss insurance.

(9) Risk management.

(10) Case management.

(11) Disease management.

(12) Quality assurance.

(13) Quality improvement.

(14) Performance evaluation.

(15) Provider credentialing verification.

(16) Utilization review.

(17) Peer review activities.

(18) Actuarial, scientific, medical or public policy research.

(19) Grievance and complaint procedures.

(20) Internal administration of compliance, managerial and information systems.

(21) Policyholder service functions.

(22) Auditing.

(23) Reporting.

(24) Database security.

(25) Administration of consumer disputes and inquiries.

(26) External accreditation standards.

(27) The replacement of a group benefit plan or workers compensation policy or program.

(28) Activities in connection with a sale, merger, transfer or exchange of all or part of a business or operating unit.

(29) An activity that permits disclosure without authorization under the Federal regulation.

(30) Disclosure that is required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out a transaction or providing a product or service that a consumer requests or authorizes.

(31) An activity otherwise permitted by law, required under governmental regulatory or reporting authority, or to comply with a court ordered warrant, a subpoena or summons issued by a judicial officer, administrative judge, referee, hearing officer or a grand jury subpoena.

(32) Compliance with qualified medical child support Orders.

(33) Preventive service reminders that do not require disclosure of nonpublic personal health information that a consumer has not previously disclosed directly to the recipient of the information.

(c) *Insurance functions performed by third parties on behalf of the licensee.* A licensee may disclose nonpublic personal health information to a third party not licensed by the Department provided that the licensee enters into an agreement with the third party that prohibits the third party from disclosing or using the nonpublic personal health information for a purpose other than to carry out one or more of the insurance functions identified in subsection (b).

(d) *Additional insurance functions.* Additional insurance functions may be added with the approval of the Commissioner to the extent they are necessary for appropriate performance of insurance functions and are fair and reasonable to the interest of consumers. The addition of insurance functions may be done by publication of a notice identifying the additional insurance functions in the *Pennsylvania Bulletin*.

§ 146b.12. Authorizations.

(a) *Valid authorization contents.* A valid authorization to disclose nonpublic personal health information under § 146b.11(a) (relating to authorization required for disclosure of the nonpublic personal health information) shall be in written or electronic form and shall contain all of the following:

(1) The identity of the consumer who is the subject of the nonpublic personal health information.

(2) A general description of the types of nonpublic personal health information to be disclosed.

(3) General descriptions of the parties to whom the licensee discloses nonpublic personal health information, the purpose of the disclosure and how the information will be used.

(4) The signature of the consumer who is the subject of the nonpublic personal health information or the individual who is legally empowered to grant authority and the date signed.

(5) Notice of the length of time for which the authorization is valid and that the consumer may revoke the authorization at any time and the procedure for making a revocation.

(b) *Duration of authorization.* An authorization for the purposes of § 146b.11(a) shall specify a length of time for which the authorization shall remain valid, which may not be for more than 24 months.

(c) *Revocation of authorization.* A consumer who is the subject of nonpublic personal health information may

revoke an authorization provided under this subchapter at any time, subject to the rights of an individual or licensee who acted in reliance on the authorization prior to notice of the revocation.

(d) *Record of authorization.* A licensee shall retain the authorization and a revocation of the authorization, or copies thereof, for 6 years in the record of the individual who is the subject of nonpublic personal health information.

§ 146b.13. Authorization request delivery.

A request for authorization and an authorization form may be delivered to a consumer as part of a privacy notice delivered under Chapter 146a (relating to privacy of consumer financial information), provided that the request and the authorization form are clear and conspicuous. An authorization form is not required to be delivered to the consumer or included in other notices unless the licensee intends to disclose nonpublic personal health information under § 146b.11(a) (relating to authorization required for disclosure of nonpublic personal health information).

Subchapter C. ADDITIONAL PROVISIONS

Sec.
146b.21. Relationship with other laws.
146b.22. Nondiscrimination.
146b.23. Violation.
146b.24. Compliance dates.

§ 146b.21. Relationship with other laws.

(a) *Relationship with the Federal regulation.* Irrespective of whether a licensee is subject to the Federal regulation, if a licensee complies with the requirements of the Federal regulation, the licensee will not be subject to this chapter.

(b) *Relationship with other state law or regulation.* Nothing in this chapter preempts or supersedes existing laws or regulations of the Commonwealth that relate to medical records, health or insurance information privacy.

(c) *Relationship with the Fair Credit Reporting Act.* This chapter will not be construed to modify, limit or supersede the operation of the Federal Fair Credit Reporting Act (15 U.S.C.A. §§ 1681—1681u), and no inference may be drawn on the basis of the provisions of this chapter regarding whether information is transaction or experience information under section 603 of that act (15 U.S.C.A. § 1681a).

(d) *Relationship with section 648 of the act (40 P.S. § 288) (relating to customer privacy).* This chapter will not be construed to modify, limit or supersede the operation of section 648 of the act (40 P.S. § 288) (relating to customer privacy).

§ 146b.22. Nondiscrimination.

A licensee may not unfairly discriminate against a consumer because that consumer has not granted authorization for the disclosure of nonpublic personal health information under this chapter.

§ 146b.23. Violation.

Violations of this chapter are deemed and defined by the Commissioner to be an unfair method of competition and an unfair or deceptive act or practice and shall be subject to applicable penalties or remedies contained in the Unfair Insurance Practices Act (40 P.S. §§ 1171.1—1171.15).

§ 146b.24. Compliance dates.

(a) Licensees with \$5 million or more in annual receipts shall comply with the applicable requirements of this chapter by April 14, 2003.

(b) Licensees with \$5 million or less in annual receipts shall comply with the applicable requirements of this chapter by April 14, 2004.

[Pa.B. Doc. No. 02-421. Filed for public inspection March 15, 2002, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Education

The Executive Board approved a reorganization of the Department of Education effective March 5, 2002.

Management Directive 260.1, Organization Requests, Section 4.f., authorizes the Secretary of Administration to rename organizational title. See the chart at 32 Pa.B. 1413 (March 16, 2002).

(*Editor's Note:* The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)

[Pa.B. Doc. No. 02-422. Filed for public inspection March 15, 2002, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

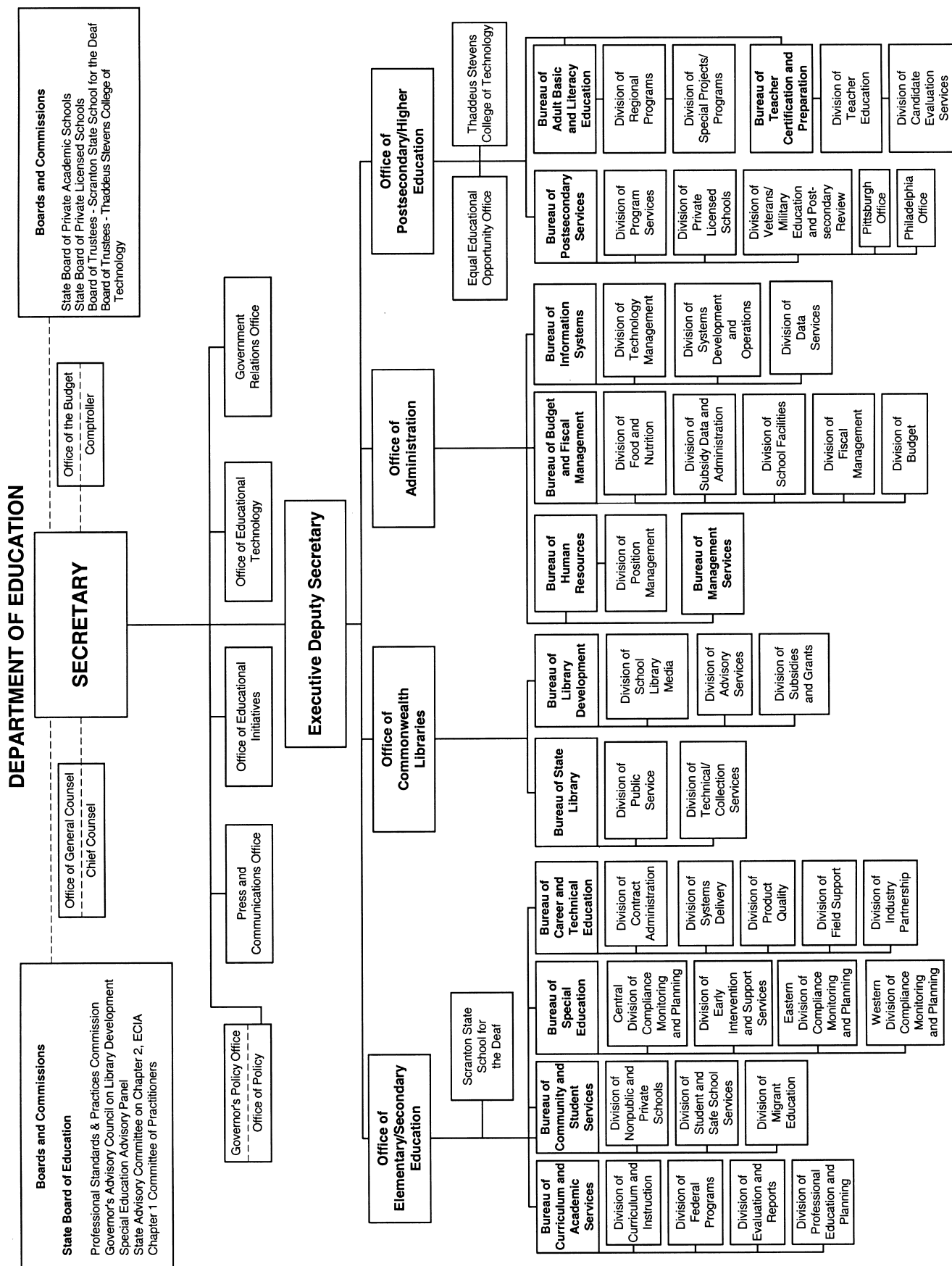
Reorganization of the Department of General Services

The Executive Board approved a reorganization of the Department of General Services effective March 5, 2002.

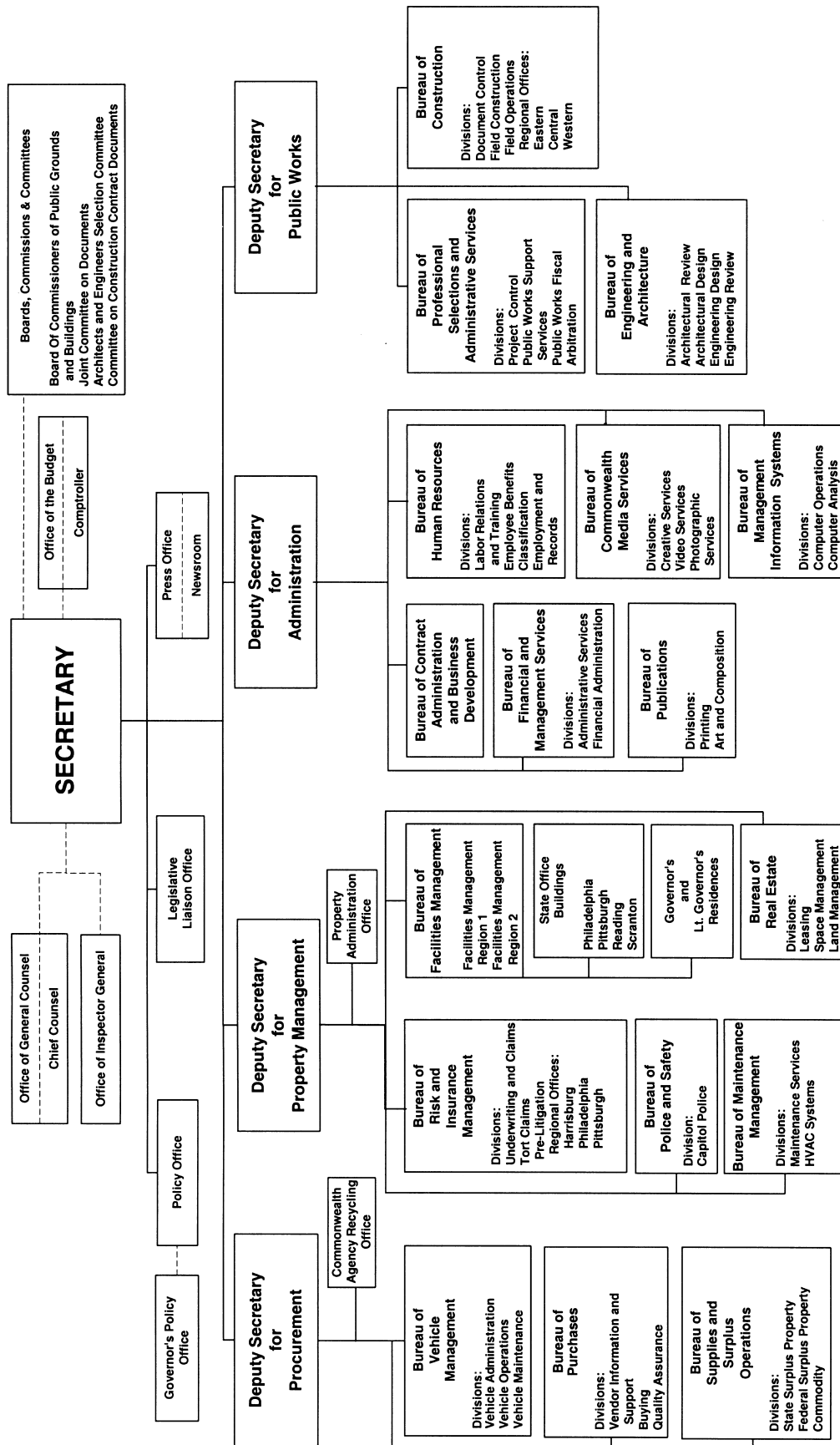
Management Directive 260.1, Organization Requests, Section 4.f., authorizes the Secretary of Administration to rename organizational title. See the chart at 32 Pa.B.1414 (March 16, 2002).

(*Editor's Note:* The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)

[Pa.B. Doc. No. 02-423. Filed for public inspection March 15, 2002, 9:00 a.m.]



DEPARTMENT OF GENERAL SERVICES



NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending March 5, 2002.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
1-1-02	Stratton Holding Company, Plymouth Meeting, to acquire 100% of the common stock of Semper Trust Company, Plymouth Meeting	Plymouth Meeting	Effective

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-27-02	Minersville Safe Deposit Bank and Trust Company Minersville Schuylkill County Purchase of assets/assumption of liabilities of two branch offices of Community Banks, Millersburg, located at: 300 Hobart Street Gordon Schuylkill County	Minersville 339 Main Street Lavelle Schuylkill County	Filed

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-5-02	The Peoples Bank of Oxford Oxford Chester County	1138 Georgetown Rd. Georgetown Bart Township Lancaster County	Filed

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-19-02	Fulton Bank Lancaster Lancaster County	<i>To:</i> Shillington Square Shopping Center 2251 Lancaster Ave. Shillington Cumru Township Berks County <i>From:</i> 6 Philadelphia Ave. Shillington Berks County	Effective

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-28-02	Wilmington Trust of Pennsylvania West Chester Chester County	402 Lancaster Ave. Haverford Montgomery County	Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Articles of Amendment**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Purpose</i>	<i>Action</i>
2-27-02	Superior Credit Union Collegeville Montgomery County	Amendment to Article I provides for a change in the physical location of the principal place of business from: 3900 Germantown Pike to: 1000 Crosskeys Road, both addresses in Collegeville, Montgomery County, PA. The mailing address will continue as P. O. Box 26159, Collegeville, PA 19426-0159	Approved and Effective
			JAMES B. KAUFFMAN, Jr., <i>Secretary</i>

[Pa.B. Doc. No. 02-424. Filed for public inspection March 15, 2002, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Conservation and Natural Resources Advisory Council; Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will meet on Wednesday, March 27, 2002. The meeting will be held at 10 a.m. in the Adams Mark Hotel, 4000 Monument Road, Philadelphia, PA.

Questions concerning this meeting or agenda items can be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Claire Guisewite directly at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

PAULETTE JOHNSON,
Chairperson

[Pa.B. Doc. No. 02-425. Filed for public inspection March 15, 2002, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

ACTIONS

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

NPDES APPLICATIONS

PART I PERMITS

Under the Federal Clean Water Act and The Clean Streams Law, the following parties have applied for an NPDES permit or to renew their current permit to discharge controlled wastewaters into the waters of this Commonwealth or to conduct other activities required by the NPDES permit. For renewal applications listed in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements. For all new permit applications, renewal application with major changes or applications for permits not waived by the EPA, the Department, based upon preliminary reviews, also made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications listed in Section II. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement, to the office noted before the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will

be considered in the formulation of the final determinations regarding this application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant. Following the comment period, the Department's Water Management Program Manager will make a final determination regarding these applications. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The renewal application, including proposed effluent limitations and special conditions, is available on file. For new permit applications, information submitted with the applications is available on file. The information may be inspected and arrangements made for copying at the office indicated before the application.

Persons with a disability, who require an auxiliary aid, service, including TDD users or other accommodations to seek additional information, should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0032301	American Water Services 453 Boot Road Downingtown, PA 19335	Delaware County Concord Township	West Branch of Chester Creek	Y

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0035726	Camp Ramah in the Poconos 261 Old York Road Jenkintown, PA 19046	Wayne County Buckingham Township	An unnamed tributary of Equinunk Creek (1A)	Yes
PA-0020940 (Minor)	Tunkhannock Borough Municipal Authority 203 West Tioga Street Tunkhannock, PA 18657-6655	Tunkhannock Borough Wyoming County	Tunkhannock Creek (4F)	Yes

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0080322	Greater Lebanon Refuse Authority 1610 Russell Road Lebanon, PA 17046	Lebanon County North Annville Township North Lebanon/Swatara Township	UNT to Swatara Creek/ 7-D	Y
PA0021776	Fairfield Municipal Authority P. O. Box 705 Fairfield, PA 17320	Adams County Hamiltonban Township	Spring Run Creek/13-D	Y
PA0035092	Tyson Foods, Inc. 403 South Custer Avenue P. O. Box 1156 New Holland, PA 17557-0901	Lancaster County Earl Township New Holland Borough	UNT to Mill Creek/7-J	Y
PA0021865	Adamstown Borough Authority of Lancaster County 98 Lancaster Avenue Adamstown, PA 19501	East Cocalico Township Lancaster County	Little Muddy Creek/7-J	Y
PA0010375 Amendment/ Name Change	Lehigh Cement Company 7660 Imperial Way Allentown, PA 18195	West Manchester Township York County	UNT Codorus Creek/7-H	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

No. PA0024058. Sewage, **Borough of Kennett Square**, 120 North Broad Street, Kennett Square, PA 19348-2942. This application is for renewal of an NPDES permit to discharge treated sewage from a sewage treatment plant in Kennett Township, **Chester County**. This is an existing discharge to West Branch Red Clay Creek.

The receiving stream is classified for the following uses: warm water fishery, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 1.1 mgd for first two years of the permit are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Suspended Solids	30	45	60
Ammonia (as N)			
(5-1 to 10-31)	3.0		6.0
(11-1 to 4-30)	9.0		18.0
Phosphorus (as P)			
(4-1 to 10-31)	Monitor		Monitor
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 6.0 mg/l at all times		
pH	Within limits of 6.0—9.0 Standard Units at all times		
Mercury, Total	0.00011		0.00028
Phenols, Total	0.023		0.058
Pentachlorophenol	0.0026		0.0065
Lindane	Monitor		Monitor
Toxicity (TU _C)	2.23 Maximum Daily		

The proposed effluent limits for Outfall 001, based on an average flow of 1.1 mgd, from third year of the permit through expiration, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	17	25	33
(11-1 to 4-30)	25	40	50
Suspended Solids	30	45	60
Ammonia (as N)			
(5-1 to 10-31)	2.0		4.0
(11-1 to 4-30)	6.0		12.0
Phosphorus (as P)			
(4-1 to 10-31)	1.3		2.6
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 6.0 mg/l at all times		
pH	Within limits of 6.0—9.0 Standard Units at all times		
Mercury, Total	0.00011		0.00028
Phenols, Total	0.023		0.058
Pentachlorophenol	0.0026		0.0065
Lindane	Monitor		Monitor
Toxicity (TU _C)	2.23 Maximum Daily		

The EPA Waiver is not in effect.

Implementation of industrial pretreatment program requirements.

Bioassay requirement.

Special Test Methods for certain pollutants.

No. PA0058416. Sewage, **Charles Cobler**, 531 Conshohocken State Road, Gladwyne, PA 19035. This application is for issuance of an NPDES permit to discharge treated sewage from a single residence sewage treatment plant in Lower Merion Township, **Montgomery County**. This is a new discharge to unnamed tributary to Schuylkill River.

The receiving stream is classified for the following uses: aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 500 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10	20
Suspended Solids	20	40
Total Residual Chlorine	Monitor/Report	Monitor/Report
Fecal Coliform	200 colonies/100 ml as a geometric average	
pH	Within limits of 6.0—9.0 Standard Units at all times	

Other Conditions:

The EPA Waiver is in effect.

The first downstream potable water intake is Queen Lane intake.

*Southcentral Region: Water Management Program
Manager, 909 Elmerton Avenue, Harrisburg, PA 17110,
(717) 705-4707.*

PAG123548, CAFO, **John E. Lindsey**, 395 Lindsey Lane, Lewistown, PA 17044. This proposed facility is located in Derry and Decatur Townships, **Mifflin County**.

Description of Proposed Activity: The John Lindsey Swine Farm is a swine and dairy operation with a total AEUs of 513.3. An estimated quantity of total annual manure production is 912 tons. John E. Lindsey is proposing to phase out the dairy operation while adding to the swine finishing operation. The 4,000 head of swine will be housed in two barns. All manure and wash water will be stored under the barn in concrete storages until application time. Of the 1,511,978 gallons of manure generated on the farm, 831,978 gallons is used on the farm with 680,000 gallons being exported to neighboring farms.

The receiving stream, UNT to Meadow Creek, is in the State Water Plan watershed 12-A and is classified for CWF.

The proposed effluent limits for the operation/activity include: except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

PAG123549, CAFO, **Jay C. Finkbiner**, R. R. 1, Box 2975, McAlisterville, PA 17049. This proposed facility is located in Fayette Township, **Juniata County**.

Description of Proposed Activity: The Finkbiner farm is an existing dairy and swine operation with a total AEUs of 919.1. The 110 head dairy operation generates approximately 418,809 gallons of manure annually. This operation uses a PTO pump to transfer manure from a reception pit located near the stanchion barn to an existing slurry store. All the dairy manure is disposed on the farm. The 6,600-head swine operation has an approximate manure generation of 1,898,348 gallons. The facilities utilize both a 900,000 and a 1.305 million-gallon under building storage facility. The storage is equipped with a foundation drainage system that can be used as a leak detection system. Of the 1,898,348 gallons of swine manure produced, 480,000 gallons is exported to neighboring farms with the remainder being applied on the home farm.

The receiving stream, Little Lost Creek, is in the State Water Plan watershed 12-A and is classified for TSF.

The proposed effluent limits for the operation/activity include: except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

PAG123550, CAFO, **Weiler Farm Partnership**, 350 East Mill Avenue, Myerstown, PA 17067. This proposed facility is located in Jackson Township, **Lebanon County**.

Description of Proposed Activity: The Weiler Farm 1 is an existing 4,000-head swine operation with a total AEUs of 556. The estimated annual manure production is 6,813 tons. The farm's manure storage system consists of reinforced concrete manure storage structures under each building. The system is designed to allow manure and wastewater to directly fall into the structure. Each structure is 81' x 206' x 6'. All of the 1,635,226 gallons of manure is exported to neighboring farms.

The receiving stream, Tulpehocken Creek, is in the State Water Plan watershed 3-C and is classified for TSF.

The proposed effluent limits for the operation/activity include: except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

PAG123551, CAFO, **Weiler Farm Partnership**, 350 East Mill Avenue, Myerstown, PA 17067. This proposed facility is located in South Londonderry Township, **Lebanon County**.

Description of Proposed Activity: The Weiler Farm 2 is an existing 6,000-head swine operation with a total AEUs of 689.1. The estimated annual manure production is 8,972.93 tons. The farm's manure storage system consists of reinforced concrete manure storage structures under each building. The system is designed to allow manure and wastewater to directly fall into the structure. Each structure is 81' x 206' x 6'. All of the 2,153,502 gallons of manure is exported to neighboring farms.

The receiving stream, Little Conewago Creek, is in the State Water Plan watershed 7-G and is classified for TSF.

The proposed effluent limits for the operation/activity include: except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

PAG123547, CAFO, Lawrence N. Mummau, R. R. 1, Box 279, East Waterford, PA 17021. This proposed facility is located in Shirley Township, **Huntingdon County**.

Description of Proposed Activity: The Mummau farm is an existing swine and beef operation with an average AEUs of 635. The operation includes approximately 40 beef cattle plus calves that are pastured 100% of the time. Of the 686.2 tons of manure produced by these animals, virtually all of the waste is deposited directly on pasture. Any manure that may be left behind in a shelter facility is stockpiled and composted but is not spread on the fields. The 3,700 head swine operation produces 2,002,002 gallons of liquid manure that is first directed through slotted floors into shallow pits beneath pens and then drained periodically to a 1,890,625 gallon capacity, impermeable polyethylene-lined earthen storage lagoon. All of the manure generated is utilized on this farm.

The receiving stream, tributary to Aughwick Creek, is in the State Water Plan watershed 12-C and is classified for: TSF.

The proposed effluent limits for the operation/activity include: except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

PA0246638, CAFO, Franklinview Farms, 2232 Franklin Road, Columbia, PA 17512. This proposed facility is located in Manor Township, **Lancaster County**.

Description of Proposed Activity: The Franklinview Farm is an existing poultry and dairy operation planning to expand the dairy portion of the farm upping the total AEUs to 1,073.4. The estimated quantity of total annual manure production is 16,529 tons. A herd of 783 dairy animals is planned with the expansion. The new facility will consist of a free-stall barn and concrete under the slatted floor of the building. The storage shall be sized to hold at least 6 months of storage. The expansion estimate of liquid cow manure is 2,621,376 gallons. The present dairy herd generates 1,016,986 gallons and 790.5 tons of manure. The 34,000-broiler litter generates 286.4 tons of manure but broiler production may be abandoned after the expansion. All of the manure produced from this operation is used on the farm.

The receiving stream, Syrickler Run, is in the State Water Plan watershed 7-G and is classified for: WWF.

The proposed effluent limits for the operation/activity include: except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms,

the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

PAG123552, CAFO, Bruce Pohlman & Son Hog Farm, 1633 Sentennial Road, New Oxford, PA 17350. This proposed facility is located in Mt. Pleasant Township, **Adams County**.

Description of Proposed Activity: The Bruce Pohlman & Son Hog Farm is an existing hog and beef operation with a total of 368 AEUs (329 AEUs are finishing swine). The estimated quantity of total annual manure production is 4,174.05 tons. All generated beef manure is used on farm. All swine manure is exported from the farm to Jim Weaver and/or Jeff Weaver Farms in New Oxford. They will be receiving approximately 656,750 gallons of hog manure.

The receiving stream, UNT (spring fed) Conewago Creek, is in the State Water Plan watershed 7F and is classified for: WWF.

The proposed effluent limits for the operation/activity include: except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

PAG123553, CAFO, Path Valley Enterprises LLC, 1272 Ash Lane, Lebanon, PA 17042. This proposed facility is located in Fannett Township, **Franklin County**.

Description of Proposed Activity: The Path Valley Farm is an existing sow operation with 297.1 AEUs. They are proposing a two building expansion (1,400 sows) and an extension onto the nursery barn, upon completion they will house 706.58 AEUs. Utilization of the existing storage structures with additional limited storage under the building will be implemented into the plant. Total storage for the sow operations will exceed 1.6 million gallons upon completion of the expansion. The nursery facility will continue to utilize the existing manure storage facility that has a capacity of 550,000 gallons. All manure will be utilized onsite (84.6 acres).

The receiving stream, Doyleysburg Stream, is in the State Water Plan watershed 12-B and is classified for: CWF.

The proposed effluent limits for the operation/activity include: except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

Application No. PA 0088781, Industrial Waste, **Connectiv Mid-Merit, Inc.**, 113 Pencader Drive, Suite 100, P. O. Box 6066, Newark, DE 19714-6066. The proposed facility will be located in Peach Bottom Township, **York County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of cooling tower blowdown.

The receiving stream, Susquehanna River, is in Watershed 7-I and is classified for warm water fishery, water supply and recreation and fish consumption. The nearest downstream public water supply intake is the City of Baltimore, located on the Susquehanna River approximately 9 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a maximum discharge rate of 6.01 MGD are:

<i>Parameter</i>	<i>Mass (lbs/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH	XXX	XXX		6.0 to 9.0 inclusive	
Free Available Chlorine	XXX	XXX	XXX	0.2	0.5
Discharge Temperature	XXX	XXX	XXX	100°F	XXX
Heat Rejection Rate	XXX	XXX	XXX	Monitor and Report	XXX
Total Aluminum	XXX	XXX	XXX	Monitor and Report	XXX
Total Copper	XXX	XXX	XXX	Monitor and Report	XXX

The proposed effluent limits for Outfall 100 (internal monitoring point) based on a maximum discharge rate of 0.4 MGD are:

<i>Parameter</i>	<i>Mass (lbs/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Oil and Grease	XXX	XXX	15	20	30
Total Suspended Solids	XXX	XXX	30	100	XXX

In addition to the effluent limits, the permit contains the following major special conditions:

- Instream temperature monitoring.
- Submission of operating procedure for moderating instream temperature changes following plant shutdown and a Preparedness, Prevention and Contingency (PPC) Plan.

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; (412) 442-4000.

PAS116105, Industrial Waste, SIC, 3545, **Kennametal, Inc.**, Chestnut Ridge Road, P. O. Box 231, Latrobe, PA 15650. This application is for issuance of an NPDES permit to discharge stormwater from the Chestnut Ridge Facility in Derry Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, Miller Run, classified as a high quality cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Buffalo Township Municipal Authority, located at 707 South Pike Road, Sarver, PA 16055, 59.67 miles below the discharge point.

Outfalls 001 and 002: new stormwater discharges.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Nitrate + Nitrite Nitrogen				Monitor and Report	
Cobalt				Monitor and Report	

The EPA waiver is in effect.

**WATER QUALITY MANAGEMENT PERMITS
CONTROLLED INDUSTRIAL WASTE AND SEWAGE
WASTEWATER**

**APPLICATIONS UNDER THE CLEAN STREAMS
LAW**

PART II PERMITS

The following permit applications or requests for plan approval have been received by the Department of Environmental Protection (Department).

Persons wishing to comment on any of the applications are invited to submit a statement to the office noted before the application within 15 days from the date of this public notice. Comments received within this 15-day comment period will be considered in making the final decision regarding the application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department reserves the right to hold a public hearing if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation of the area. If no hearing is held, the Department's Water Management Program Manager will make a final determination regarding the applications after a complete review. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

A copy of the permit application or proposed plan is on file in the office indicated and is open to public inspection. Appointments to review the application may be made by contacting Records Management at the indicated telephone number.

I. Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

WQM Permit No. 0902404, Sewerage, **Tom Helder**, 3260 Mink Road, Kintnersville, PA 18930. This proposed facility is located in Springfield Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a small flow sewage treatment facility.

WQM Permit No. 1500421 Amendment No. 2, Sewerage, **Upper Uwchlan Township**, 140 Pottstown Pike, Chester Springs, PA 19425. This proposed facility is located in Upper Uwchlan Township, **Chester County**.

Description of Proposed Action/Activity: Amend the existing permit for construction of a spray irrigation field and storage tank and the internal sewage collection system associated with the construction of 131 single-family units.

WQM Permit No. 1598404 Amendment No. 1, Sewerage, **Spring City Borough**, 6 South Church Street, Spring City, PA 19475. This proposed facility is located in Spring City Borough, **Chester County**.

Description of Proposed Action/Activity: Amend the existing permit to install an effluent liquid hypochlorite disinfection system replacing the facility's existing gas chlorine disinfection system.

WQM Permit No. 1599201, Industrial Waste, **Philadelphia Suburban Water Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This proposed facility is located in Wallace Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a water treatment plant consisting of two lined lagoons and other treatment units at Cornog Quarry.

Southcentral Region: Water Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 3801403 Amendment 02-1, Sewerage, **Mount Gretna Authority**, 101 Chautauqua Drive, P. O. Box 322, Mount Gretna, PA 17064. This proposed facility is located in South Londonderry Township, **Lebanon County**.

Description of Proposed Action/Activity: Authorization to replace the present chlorine injection system with an ultra-violet system.

WQM Permit No. 0602402, Sewerage, **Donald J. Pilon**, 1475 Elverson Rd., Elverson, PA 19520. This proposed facility is located in Caernarvon Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to construct a small flow sewage treatment system to serve single residence on Lot #2.

WQM Permit No. 3602201, CAFO operation, **Franklinview Farms**, 2232 Franklin Road, Columbia, PA 17512. This proposed facility is located in Manor Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to expand dairy operation.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 0202405, Sewerage, **Andrew Bell**, 405 Edgewood Drive, Sarver, PA 16055. Application for the construction and operation of a small flow sewage treatment plant to serve the Bell Residence located in Frazer Township, **Allegheny County**.

Application No. 462S121, Sewerage, **Girl Scouts of Southwestern Pennsylvania**, 606 Liberty Avenue, Pittsburgh, PA 15222. Application for the modification and operation of the Camp Henry Kaufman sewage treatment plant to serve the residents of Camp Henry Kaufman located in Fairfield Township, **Westmoreland County**.

Application No. 6302401, Sewerage, **Peters Township Sanitary Authority**, 3244 Washington Road, McMurray, PA 15317. Application for the construction and operation of the Valleybrook Interceptor to serve the Upper Brush Run Service Area located in Peters Township, **Washington County**.

Application No. 6502403, Sewerage, **H.I.S. Enterprises**, 930 Merwin Road, New Kensington, PA 15068. Application for the construction and operation of a sewage treatment plant to serve the Morrow Mobile Home Park located in Upper Burrell Township, **Westmoreland County**.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 1602401, Industrial Waste, **Pennsylvania American Water Company**, 800 West Hersheypark Drive, Hershey, PA 17033. This proposed facility is located in Clarion Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for the construction of a water treatment plant.

WQM Permit No. 1002404, Sewerage, **Department of Conservation and Natural Resources—Moraine State Park**, Bureau of Facility Design and Construction, 195 Park Road, P. O. Box 387, Prospect, PA 16052-0387. This proposed facility is located in Muddy Creek Township, **Butler County**.

Description of Proposed Action/Activity: This project is for the replacement of existing sand filters with new continuous backwash, up-flow filters; construction of a duplex, submersible pumping station with automatic controls; and modification of an existing chlorine contact basin.

WQM Permit No. 2502405, Sewerage, **Union Township Municipal Authority**, 16300 Route 8, Union City, PA 16438. This proposed facility is located in Union Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the installation of a pump station and sanitary sewerage system that will connect to an existing treatment plant.

WQM Permit No. 4389412, Sewerage Amendment, **Ekstrom Mobile Home Park**, 1050 Garfield Street, Wadsworth, OH 44281. This proposed facility is located in Hempfield Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for the addition of a 10,000-gallon Flow Equalization Tank to an existing sewage treatment plant.

WQM Permit No 2502406, Sewerage, **Donna R. and Peter J. Vuksta**, 40 Blue Mountain Manor, Saugertis, NY. 12477. This proposed facility is located in LeBoeuf Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

WQM Permit No 3702403, Sewerage, **James D. Welker**, R. R. 3, Box 87, New Castle, PA 16105. This proposed facility is located in Neshannock Township, **Lawrence County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

WQM Permit No 6202403, Sewerage, **Todd R. Swanson**, R. R. 2, Box 2618, Russell, PA 16345. This proposed facility is located in Pine Grove Township, **Warren County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

WQM Permit No 2002402, Sewerage, **Danny P. and Shelly M. Forbes**, 21958 Hillview Road, Saegertown, PA 16433. This proposed facility is located in Cussewago Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

WQM Permit No 6202404, Sewerage, **Rae Kent Gardner**, P. O. Box 43, Warren, PA 16365-0043. This proposed facility is located in Conewango Township, **Warren County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

WQM Permit No 4302408, Sewerage, **Frederick C. Callahan**, 85 Fredonia Road, Apt. 4, Greenville, PA 16125. This proposed facility is located in Hempfield Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

NPDES Stormwater Individual Permit

The following parties have applied for an NPDES permit to discharge stormwater associated with a construction activity into waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit conditions. These proposed determinations are tentative. Limitations are provided as erosion and sediment control best management practices that restrict the rate and quantity of sediment discharged.

Where indicated, the EPA Region III Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the appropriate Department Regional Office noted before the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate Department Regional Office during the 30-day public comment period.

Following the 30-day comment period, the appropriate Regional Office Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, including the erosion and sediment control plan for the earth disturbance activity, are on file and may be inspected at the office identified in this notice.

Persons with a disability that require an auxiliary aid, service or other accommodation to participate during the 30-day public comment period should contact the specified Regional Office. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Centre County Conservation District, 414 Holmes Ave, Suite 4, Bellefonte, PA 16823 (814) 355-8696.

NPDES Permit PAS10F103, Stormwater, **The Pennsylvania State University**, Office of Physical Plant, University Park, PA 16802 has applied to discharge stormwater associated with a construction activity located in State College Borough, **Centre County** to Thompson Run, HQ-CWF.

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act, the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on the permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Comment responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

Southcentral Region: Water Supply Management Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 0102502, Public Water Supply.

Applicant	The Links of Gettysburg Utility Company LLC
Municipality	Mt. Joy Township
County	Adams
Responsible Official	Richard Klein, President 601 Mason Dixon Road Gettysburg, PA 17325
Type of Facility	PWS
Consulting Engineer	Richard M. Bodner, P.E. Martin and Martin, Inc. 37 S. Main St. Chambersburg, PA 17201
Application Received Date	February 8, 2002
Description of Action	Construction Permit Application for a new community water system. The system will consist of two wells, manganese filtration, chlorine disinfection, storage and distribution facilities. Projected average daily demand for the proposed system is 112,000 gpd. Well No. 1 is to have a capacity of 120 gpm and Well No. 2 is to have a capacity of 112 gpm.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

Southeast Region: Water Supply Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Application No. 0902502, Minor Amendment.

Applicant	Philadelphia Suburban Water Company
Borough	Chalfont
Responsible Official	Joseph A. Ritter 762 W. Lancaster Avenue Bryn Mawr, PA 19010
Type of Facility	PWS System
Consulting Engineer	Philadelphia Suburban Water Company 762 W. Lancaster Avenue Bryn Mawr, PA 19010
Application Received Date	February 25, 2002
Description of Action	Change of disinfection from gas chlorine to liquid sodium hypochlorite feed.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908)

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the Act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific

standard, in whole or in part and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period the municipality may request that the person identified, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved and comments, should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department received the following Notices of Intent to Remediate:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Fypon Stewartstown, Borough of Stewartstown, **York County**. Langan Engineering & Environmental Services, Inc., 30 South 17th Street, Suite 1500, Philadelphia, PA 19103-4005, on behalf of Fypon, Ltd., 22 West Pennsylvania Avenue, Stewartstown, PA 17363, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with PCE, VOCs and SVOCs. The applicant proposes to remediate the site to meet the requirements for a combination of the Statewide Health and Site-Specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *York Daily Record/York Dispatch* on February 25, 2002.

Federal Mogul Corporation, City of Lancaster, **Lancaster County**. Environmental Strategies Corporation, Four Penn Center West, Suite 315, Pittsburgh, PA 15276, on behalf of Federal Mogul Corporation, 26555 Northwestern Highway, Southfield, MI 48034, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with PCBs, lead, heavy metals, pesticides, solvents, BTEX, PHCs and PAHs. The applicant proposes to remediate the site to meet the Site-Specific standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lancaster New Era* on February 12, 2002.

Former West Fairview Borough Building Property, East Pennsboro Township, **Cumberland County**. Onesky Engineering, Inc., 210 Carter Drive, Suite 8, West Chester, PA 19382-4984, on behalf of East Pennsboro Township, 98 South Enola Drive, Enola, PA 17025-2796, submitted a Notice of Intent to Remediate site groundwater contaminated with BTEX. The applicant proposes to remediate the site to meet the requirements for a combination of the Statewide Health and Site-Specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Harrisburg Patriot News* on January 31, 2002.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Caparo Steel Company (Former Boilerhouse Fuel Storage Areas (AOC-9)), 15 Roemer Blvd., City of Farrell, **Mercer County**, Paul Wojciak, P.E. of Environmental Management Services, Suite 23, 10925 Perry Highway, Wexford, PA 15090 (on behalf of Caparo Steel Company) has submitted a Notice of Intent to Remediate soil contaminated with Lead, Heavy Metals, BTEX, PHCs and PAHs. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Herald Newspaper*.

DETERMINATION FOR APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Applications for Determination of Applicability received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

General Permit Application No. WMGR038SW001. Iser, Inc., P. O. Box 303, Somerset, PA 15501. Iser Facility, P. O. Box 303, Somerset, PA 15501. An application for a General Permit determination of applicability in Elk Lick Township, **Somerset County**, was received in the Regional Office on February 26, 2002.

Comments concerning the application should be directed to David Eberle, Facilities Supervisor, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Persons interested in obtaining more information about the general permit application may contact the Department Southwest Regional Office at (412) 442-4000. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

AIR QUALITY

NOTICE OF PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Office identified in this notice. Persons interested in reviewing the application files should contact the appropriate Regional Office to schedule an appointment.

Persons wishing to receive a copy of the proposed Plan Approval or Operating Permit must indicate their interest to the Department Regional Office within 30 days of the date of this notice and must file protests or comments on a Proposed Plan Approval or Operating Permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Any comments or protests filed with the Department Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts, which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the Regional Office identified. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act and regulations adopted under the Act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.

35-317-003: Preferred Meal Systems, Inc. (4135 Birney Avenue, Moosic, PA 18507) for construction of a steam convection cooking oven and associated air cleaning device in Moosic Borough, **Lackawanna County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

26-00402B: CBF, Inc. (Route 21, P. O. Box 266, McClellandtown, PA 15458) for installation of increased landfill gas flow rates at J and J Landfill in German Township, **Fayette County**.

65-00280A: Kalumetals, Inc. (P. O. Box 455, Latrobe, PA 15650) for installation of thermal oxidizer/afterburner at Derry Plant in Derry Township, **Westmoreland County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

46-0041A: Jefferson Smurfit Corp. (U. S.) (1035 Longford Road, Phoenixville, PA 19460) for installation of a new lithographic printing press (Press No. 10) at the folding carton plant in Upper Providence Township, **Montgomery County**. The plant is a Title V facility. This installation will result in a VOC net emission increase of 24.5 tons per year. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

46-00015: Occidental Chemical Corp., Inc. (375 Armand Hammer Blvd., Pottstown, PA) to amend their Title V Operating Permit to incorporate the plan approval that was issued on March 29, 2000, for the replacement of a product cyclone on Production Line No. 6 at their facility in Lower Pottsgrove Township, **Montgomery County**. Production Line No. 6 corresponds to Source ID 104 in the Title V Operating Permit. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

05-03010A: New Enterprise Stone and Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664) for installation of a limestone screening and crushing unit at the existing limestone crushing and screening plant in Snake Spring Township, **Bedford County**. The crusher will be controlled by wet suppression and it is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. The potential emissions of particulate matter will increase by 2.4 tons per year. The plan approval will include recordkeeping and reporting requirements designed to ensure compliance with the applicable air quality requirements.

06-05069A: East Penn Mfg. Co., Inc. (P. O. Box 147, Lyon Station, PA 19536) for installation of two replacement mist eliminators to control the battery formation operation at the Industrial Battery Plant in Richmond Township, **Berks County**. The operation has a potential to emit 4.2 tons per year of particulate and 2.4 tons per year of sulfur oxides. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the source operating within all applicable air quality requirements. The plan approval will be incorporated into the Title V operating permit in accordance with 25 Pa. Code § 127.450.

36-03135A: Shared Mail Acquisitions, LLC (72 Industrial Circle, Leola, PA 17540-0129) for construction of sources at its printing facility in Upper Leacock Township, **Lancaster County**. This printing facility is a non-Title V (State only) facility. This construction will result in 2.28 tons per year of VOCs, 2.29 tons per year of nitrogen oxides, 1.92 tons per year of carbon monoxide and less than 1 ton each of hazardous air pollutants, particulate matter and sulfur oxides to be emitted. A thermal oxidizer will control the VOC emissions. Conditions for monitoring, recordkeeping and operating are included to keep the facility operating within the applicable requirements.

ER-36-05015A: Dart Container Corp. of PA (60 East Main Street, Leola, PA 17540) for an Air Quality Emission Reduction Credit approval of 20 tons of VOCs, resulting from the use of nonvolatile ultraviolet cured inks in the polyethylene film (bag) printing operations in

Upper Leacock Township, **Lancaster County**. The plan approval will include emission limitations, testing, monitoring, record keeping, reporting requirements and work practice standards designed to keep the facility operating within all applicable air quality requirements.

36-05027B: R. R. Donnelley and Sons Co. (1375 Harrisburg Pike, Lancaster, PA 17601) for installation of one web offset printing press at the Lancaster East Plant in Lancaster City, **Lancaster County**. The existing thermal oxidizer will control the new source. The allowable VOC emissions, from the operation of the press, are limited to 30 tons per year. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the source operating within all applicable air quality requirements. The plan approval will be incorporated into the Title V operating permit in accordance with 25 Pa. Code § 127.450.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Contact: William Charlton, New Source Review Chief, (412) 442-4174.

30-00099A: Allegheny Energy Supply Co., LLC (4350 Northern Pike, Monroeville, PA 15146) for installation of NOx control projects on Units #1—#3 at Hatfield's Ferry Power Station in Monongahela Township, **Greene County**.

The facility is subject to the applicable requirements of 25 Pa. Code Chapter 127 and 25 Pa. Code §§ 123.102—123.120. It is proposed that the following conditions be placed in the Plan Approval:

1. The facility is to be constructed in accordance with the plans submitted with the application (as approved herein).

2. Upon completion of the construction of the facility, an operating permit must be obtained. Notify the Department when the installation is completed so that the facility can be inspected for issuance of an operating permit.

3. This Plan Approval authorizes the installation of NOx control projects on Units #1—#3 at Allegheny Energy Supply Company's Hatfield's Ferry Power Station located in Monongahela Township, Greene County (25 Pa. Code § 127.11).

4. The proposed NOx control project on Unit #1 consists of rotary overfired air nozzles, Rotamix nozzles for the injection of ammonia and all associated fans, ductwork, transfer piping and control systems. Also included is an aboveground tank and associated unloading and transfer equipment for the storage and use of aqueous ammonia and/or urea unloading, storage and processing equipment (25 Pa. Code § 127.11).

5. Urea storage silos shall be equipped with bin vent collectors. Urea shall be pneumatically transferred from trucks/railcars to storage silos. Unloading of urea trucks/railcars shall not take place unless the pneumatic transfer/bin vent collector systems are also operating properly.

6. The NOx control projects for Units #2 and #3 consist of the installation of natural gas reburn systems. Systems each include nozzles for the injection of natural gas and overfire air and all associated fans, ductwork, piping and control systems (25 Pa. Code § 127.12b).

7. The emission of ammonia from Unit #1 shall not exceed 10 ppmv at stack conditions as determined by EPA Conditional Test Method (CTM-027), *Procedure for Collec-*

tion and Analysis of Ammonia in Stationary Sources or other procedure approved by the Department (25 Pa. Code § 127.12b).

8. Stack testing shall be conducted on Unit #1 to determine the mass emission rate of ammonia (as NH₃) and carbon monoxide. Stack testing shall be conducted on Units #2 and #3 to determine the mass emission rate of carbon monoxide and nonmethane VOCs. Testing should be conducted within 90 days of achieving maximum capacity operation (including maximum natural gas availability) of the NOx control project on each unit. However, it is understood that additional time, not to exceed 180 days total, may be necessary, due to the three-unit, two-stack configuration and the required unit outages to isolate emissions from each unit (25 Pa. Code §§ 127.12b and 139.11).

a) Stack testing shall be conducted in accordance with the provisions of 25 Pa. Code Chapter 139 and the Department's Source Testing Manual.

b) At least 60 days prior to the test, the owner/operator shall submit to the Department two copies of the procedures for the stack test and drawings with dimensions indicating the location of sampling ports and other data to ensure the collection of representative samples.

c) At least 15 days prior to the test, the Regional Air Quality Manager shall be informed of the date and time of the test.

d) All relevant operating parameters (such as boiler steam flow, air flow, gross megawatts, O₂; CEMS heat input and stack flue gas volumetric flow rate; natural gas and/or ammonia feed flow rate) shall be recorded at appropriate intervals throughout the duration of the stack tests. Operating data recorded shall be sufficient to establish that the units and the air cleaning devices are operating at maximum routine operating conditions. A discussion of the recorded operating parameters and values shall be included in the test report.

e) Within 60 days after the stack test, two copies of the complete test report, including all recorded operating parameters, shall be submitted to the Regional Air Quality Manager for approval.

f) The ammonia slip limit previously established may be revised based on the results of the stack testing.

9. It is not an enforceable requirement that the NOx control projects be operated at any given time (25 Pa. Code § 127.12b).

10. Owner/operator shall keep a monthly log of all aqueous ammonia and/or urea delivered to this facility. These records shall be kept onsite for a period of 5 years and be made available to the Department upon request (25 Pa. Code § 127.12b).

11. As required by 40 CFR 68.10(a)(3), a Risk Management Plan must be submitted to both EPA and the Department prior to the storage on site of any regulated toxic substances in excess of the threshold quantities listed Table 1 to 40 CFR 68.130. The Risk Management Plan shall include all of the requirements of 40 CFR 68, Subpart G.

12. Total fuel input to Units #1—#3 shall not exceed their rated heat capacity of 5,766 mmBtu/hr each.

13. This approval to construct shall become invalid: (1) if construction is not commenced (as defined in 40 CFR 52.21(b)(8)) within 18 months after the date of this approval; or (2) if construction is discontinued for a period of 18 months or more (25 Pa. Code § 127.13(b)).

14. This Plan Approval authorizes temporary operation of the sources and/or control devices covered by this Plan Approval provided the following conditions are met (25 Pa. Code § 127.12b(d)).

a) The Department must receive written notice from the Owner/Operator of the completion of construction and the operator's intent to commence operation at least 5 working days prior to the completion of construction. The notice should state when construction will be completed and when operator expects to commence operation.

b) Operation is permitted only to facilitate the start-up and shake-down of sources and/or air cleaning devices, to permit operations pending the issuance of an Operating Permit or to permit the evaluation of the sources and/or control devices for compliance with all applicable regulations and requirements.

c) This condition authorizes temporary operation of the sources and/or control devices for a period of 180 days from the date of commencement of operation, provided the Department receives notice from the Owner/Operator under subpart (a).

d) The Owner/Operator may request an extension if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of this period of temporary operation and shall provide a description of the compliance status of the sources and/or control devices, a detailed schedule for establishing compliance and the reasons compliance has not been established.

e) The notice submitted by the Owner/Operator under subpart (a), prior to the expiration of this Plan Approval, shall modify the plan approval expiration date. The new Plan Approval expiration date shall be 180 days from the date of the written.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Saffo, Facilities Permitting Chief, (570) 826-2531.

48-00011: C. F. Martin and Co., Inc. (510 Sycamore Street, Nazareth, PA 18064) for their guitar manufacturing process in Upper Nazareth Township, **Northampton County**. As a result of emissions of VOCs, the company is considered a major stationary source subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Permit will incorporate applicable air quality requirements of Title V for the sources at the facility and include the Department's Plan Approval No. 48-318-129B. Plan Approval No. 48-318-129B is an approval for an increase of operating hours and VOC emissions. It requires that the VOC emissions from the entire facility shall never exceed 98.9 tons per year from the coating operation and clean-up solvents. The operating permit will contain additional record keeping and operating restrictions designed to keep the source operating within all applicable air quality requirements.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Saffo, Facilities Permitting Chief, (570) 826-2531.

66-00002: Wyoming Sand and Stone Co. (6 Wyoming Sand Road, Tunkhannock, PA 18657) for a Synthetic Minor Operating Permit for the operations at the facility in Eaton Township, **Wyoming County**.

35-00044: Community Central Energy Corp. (1220 North Washington Avenue, Scranton, PA 18509) for a Natural Minor Operating Permit for the operations at the facility in the City of Scranton, **Lackawanna County**.

48-00049: OMG Acquisition Holdings II, Inc. (275 Keystone Drive, Bethlehem, PA 18020-9464) for a Natural Minor Operating Permit for the operations at the facility in Lower Nazareth Township, **Northampton County**.

48-00046: Easton Affiliated Services Corp. (2111 Butler Street, Easton, PA 18042) for a Natural Minor Operating Permit for the operations at the facility in Wilson Borough, **Northampton County**.

40-00060: Hudson Anthracite, Inc. (202 Main Street, Laflin, PA 18702) for a Natural Minor Operating Permit for the operations at the facility in Jenkins Township, **Luzerne County**.

40-00041: Back Mountain Veterinary Hospital (732 Center Hill Road, Dallas, PA 18612) for a Natural Minor Operating Permit for the operations at the facility in Dallas Township, **Luzerne County**.

35-00028: Moses Taylor Hospital (700 Quincy Avenue, Scranton, PA 18510) for a Natural Minor Operating Permit for the operations at the facility in the City of Scranton, **Lackawanna County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

36-05062A: Manheim Auto Auctions (1190 Lancaster Road, Manheim, PA 17545-9746) for operation of their automobile refinishing facility in Penn Township, **Lancaster County**. Emissions of VOCs will be limited to less than 50 tons per year. Emissions of hazardous air pollutants (HAPs) will be limited to less than 10 tons per year for any individual HAP and less than 25 tons per year for any combination of HAPs. The synthetic minor operating permit will contain emission limits, monitoring, recordkeeping and reporting requirements to ensure the facility operates in accordance with the applicable requirements.

36-05073: Bollman Hat Co. (110 East Main Street, Adamstown, PA 19501) for operation of their Main Street hat manufacturing plant in Adamstown Borough, **Lancaster County**. Potential emissions of nitrogen oxides and sulfur oxides from the facility's two boilers are 100 tons for each pollutant annually. The synthetic minor operating permit will contain emission limits, monitoring, recordkeeping and reporting requirements to ensure the facility operates in accordance with the applicable requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

59-399-013: Truck-Lite Co., Inc. (R. R. 7, Box 942, Wellsboro, PA 16901) for operation of two wave soldering

machines and eight associated hand soldering stations in Wellsboro Borough, Charleston Township, **Tioga County**.

The two wave soldering machines and eight associated hand soldering stations have the potential to emit up to 5.98 tons of VOCs, .17 tons of lead and .77 tons of combined hazardous air pollutants (including lead) in any 12 consecutive month period.

The Department has determined that the wave soldering machines and hand soldering stations were constructed and are operating, in accordance with all conditions of Plan Approval 59-399-013 as well as in compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. The Department consequently intends to issue an operating permit for the operation of the respective wave soldering machines and hand soldering stations.

The Department intends to place conditions in the operating permit to be issued to ensure continued compliance with all applicable requirements. The following is a summary of these conditions:

1. The two wave soldering machines and eight associated hand soldering stations shall not emit a combined total of more than 5.98 tons of VOCs, .17 tons of lead and .77 tons of combined hazardous air pollutants (including lead) in any 12 consecutive month period.

2. The company shall not use more than a combined total of 800 gallons of flux, 800 gallons of thinner and 3.6 tons of solder paste in the two wave soldering machines and eight associated hand soldering stations during any 12 consecutive month period.

3. The eight hand soldering stations shall not use more than a combined total of 2 tons of solder in any 12 consecutive month period or use a solder that contains a lead content greater than 40% by weight.

4. The two wave soldering machines shall not use more than a combined total of 3.6 tons of solder in any 12 consecutive month period or use solder that contains a lead content greater than 37% by weight.

5. The company shall keep records of the amount of each solder, flux and thinner that is used each month in the two wave soldering machines and the amount of each used each month in the eight hand soldering stations. All records shall be retained for at least 5 years and made available to the Department upon request.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

04-00713: US Natural Resources Microspheres (212 State Street, Belle Vernon, PA 15012) for a drying and bagging operation in Harmony Township, **Beaver County**.

04-00714: Ashland Inc. (5200 Blazer Parkway, Dublin, OH 43017) for a blending and packaging operation in Rochester Borough, **Beaver County**.

30-00096: Kyowa America Corp. (317 East Roy Furman Highway, Waynesburg, PA 15370) for operation of a rotary concentrator and thermal oxidizer in Franklin Township, **Green County**.

04-00682: Heckett MultiServe (612 North Main Street, Butler, PA 16001) for renewal of a slag processing plant in Koppel Borough, **Beaver County**.

11-00498: Pets After Life Services (316 Allen Street, Portage, PA 15946) for operation of an animal crematory in Portage Township, **Cambria County**.

MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated before each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments or objections or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment and informal conferences).

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the previous, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining that may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the previously-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor de-

sires to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

54860109R3. Harriman Coal Corporation (978 Gap Street, Valley View, PA 17983), renewal of an existing anthracite surface mine operation in Tremont Township, **Schuylkill County** affecting 35.0 acres, receiving stream: none. Application received February 22, 2002.

49970201R. Split Vein Coal Co., Inc. (R. R. 1, Drawer 2, Paxinos, PA 17860), renewal of an existing refuse reprocessing operation in Mt. Carmel Township, **Northumberland County** affecting 72.3 acres, receiving stream: none. Application received February 22, 2002.

40810108C2. Pioneer Aggregates, Inc. (202 Main Street, Wilkes-Barre, PA 18702), correction to an existing anthracite surface mine operation in Plains Township, **Luzerne County** affecting 82.0 acres, receiving stream: none. Application received February 22, 2002.

54861303R3. R & D Coal Company (214 Vaux Avenue, Tremont, PA 17981), renewal of an anthracite underground mine operation in Tremont Township, **Schuylkill County** affecting 7.8 acres, receiving stream: Lorberry Creek. Application received February 26, 2002.

54920201R2. Northeastern Power Co. (P. O. Box 7, McAdoo, PA 18237-0001), renewal of an existing anthracite coal refuse reprocessing operation in Kline and Packer Townships, **Schuylkill and Carbon Counties** affecting 876.0 acres, receiving stream: none. Application received February 26, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

63020101. David Breeden Enterprises, Inc. (P. O. Box 89, Tarentum, PA 15084). Commencement, operation and reclamation of a bituminous surface mine located in Somerset Township, **Washington County** affecting 261.6 acres. Receiving streams: unnamed tributaries to Center Branch of Pigeon Creek to Pigeon Creek, classified for the following use: warm water fishery. The first downstream potable water supply intake from the point of discharge is Ellsworth Borough Water Department. Application received February 14, 2002.

65990103. TCNC Industries (384 Foster Road, North Versailles, PA 15137). Transfer application currently issued to Gary Gioia Coal Co. for commencement, operation and reclamation of a bituminous surface mine located in Hempfield Township, **Westmoreland County** affecting 21.5 acres. Receiving streams: unnamed tributaries to Wilson Run to Wilson Run to Sewickley Creek; classified for the following use: warm water fishery. There is no potable water supply intake within 10 miles downstream from the point of discharge. Transfer application received February 19, 2002.

65920104. Albert F. Stiffler (141 Locust Road, Box 42-C, Normalville, PA 15469). Transfer application currently issued to Mehalic Brothers for commencement, operation and reclamation of a bituminous surface mine located in Mt. Pleasant Township, **Westmoreland County** affecting 100 acres. Receiving streams: unnamed tributaries to Welty Run to Welty Run to Sewickley Creek, classified for the following use: cold water fishery. There is no potable water supply intake within 10 miles

downstream from the point of discharge. Transfer application received February 28, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32020101 and NPDES Permit No. PA0249165. Alverda Enterprises, Inc., P. O. Box 87, Alverda, PA 15710, commencement, operation and restoration of a bituminous surface and coal refuse processing mine and for discharge of treated mine drainage in Pine Township, **Indiana County**, affecting 18.3 acres. Receiving streams: Yellow Creek classified for the following uses: cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received February 25, 2002.

32950108 and NPDES Permit No. PA0213241. TLH Coal Company, R. D. 1, Box 170, Rochester Mills, PA 15771, permit renewal for reclamation only for continued restoration of a bituminous surface mine and for existing discharge of treated mine drainage in East Mahoning Township, **Indiana County**, affecting 52.6 acres. Receiving streams: Dixon Run and unnamed tributaries to Rayne Run classified for the following uses: Cold Water Fishery. The first downstream potable water supply intake from the point of discharge is Indiana County Municipal Authority-Indiana Borough Water Supply. Application received February 26, 2002.

Noncoal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

09870302C4 and NPDES Permit #PA0036421. Delaware Valley Concrete Co., Inc. (248 East County Line Road, Hatboro, PA 19040), renewal of NPDES Permit in Tinicum Township, **Bucks County**, receiving stream: Delaware River classified for the following use: warm water fishery. Application received February 25, 2002.

5278SM2C4. Hanson Aggregates, Inc. (P. O. Box 231, Easton, PA 18044-0231), correction to an existing quarry operation in Lake Township, **Wayne County** affecting 104.63 acres, receiving stream: unnamed tributary to Middle Creek. Application received February 25, 2002.

52820303C4 and NPDES Permit #PA0613169. Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105), renewal of NPDES Permit in Oliver Township, **Perry County**, receiving stream: Little Buffalo Creek classified for the following use: cold water fishery. Application received February 27, 2002.

7075SM1C3 and NPDES Permit #PA0612120. Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105), renewal of NPDES Permit in Spring Township, **Perry County**, receiving stream: Sherman's Creek classified for the following use: warm water fishery. Application received February 27, 2002.

7175SM1A1C5 and NPDES Permit #PA0613827. Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105), renewal of NPDES Permit in South Hanover Township, **Dauphin County**, receiving stream: Swatara Creek classified for the following use: warm water fishery. Application received February 27, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

30020801. Mather Recovery Systems, LLC (1620 Locust Ave., Fairmont, WV 26554). Commencement, operation and reclamation of a small noncoal surface mine located in Morgan Township, **Greene County** affecting 5

acres. Receiving streams: Brown's Run of South Fork and South Fork of Ten Mile Creek, classified for the following use: warm water fishery. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received January 25, 2002.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knoxville, PA 16232-0669, (814) 797-1191.

5380-37930302-E-1. Quality Aggregates, Inc. (200 Neville Road, Pittsburgh, PA 15225). Application for a stream encroachment to construct a temporary stream crossing over an unnamed tributary to Slippery Rock Creek located on the Harold W. Wilson property in Slippery Rock Township, **Lawrence County**, classified for the following uses: CWF. The first downstream potable water supply intakes from the point of discharge are Belvedere Retirement Home Well; Armco Park CC; and Salvation Army Camp. Receiving streams: unnamed tributary of Slippery Rock Creek. Application received February 22, 2002.

24020301. Superior Greentree Landfill, LLC (635 Toby Road, Kersey, PA 15846). Commencement, operation and restoration of a soil overburden operation in Fox Township, **Elk County** affecting 57.0 acres. Receiving streams: unnamed tributary to Sawmill Run, classified for the following uses: Statewide water uses: CWF. No public water supplies are within 1,000 feet of the permit area. Application received February 19, 2002.

6763-24020301-E-1. Superior Greentree Landfill, LLC (635 Toby Road, Kersey, PA 15846). Application for a stream encroachment by the haul road within 100 feet of and the installation of a temporary stream crossing over Sawmill Run in Fox Township, **Elk County** affecting 57.0 acres. Receiving streams: unnamed tributary to Sawmill Run, classified for the following uses: Statewide water uses: CWF. No public water supplies are within 1,000 feet of the permit area. Application received February 19, 2002.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications and requests for Environmental Assessment approval and requests for Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)), requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Initial requests for 401 Water Quality Certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or

conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between the hours of 8 a.m. and 4 p.m. on each working day at the office noted before the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications Received under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and Requests for Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E09-837. Borough of Sellersville, 140 E. Church Street, Sellersville, PA 18960, Borough of Sellersville, **Bucks County**, ACOE Philadelphia District.

To construct and maintain approximately 230 linear feet of triple cell 48-inch HDPE stream enclosure with associated junction box, end-walls and riprap apron in and along an unnamed tributary to the East Branch Perkiomen Creek (TSF). The junction box will serve to connect the proposed structure with the existing Maple Avenue road crossing, which consists of a 42-inch CMP and a 48-inch by 68-inch elliptical CMP. The site is located 100 feet east of the intersection of Farmers Lane and Maple Avenue (Telford, PA Quadrangle N: 19.5 inches; W: 9 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E48-322. Tatamy Borough, 23 Broad Street, P. O. Box 218, Tatamy, PA 18085, in Tatamy Borough, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To maintain two 36-inch diameter stormwater outfall structures projecting into Bushkill Creek (HQ-CWF). The projects are located approximately 1,200 feet apart between S.R. 1002 and the Borough boundary (Easton, PA-NJ Quadrangle N: 21.0 and 20.3 inches; W: 17.0 and 16.9 inches).

E66-129. Richard M. and Deborah M. Bell, R. R. 2, Box 101, Mehoopany, PA 18629, in Lemon Township, **Wyoming County**, U. S. Army Corps of Engineers, Baltimore District.

To dredge approximately 27 c.y. of material from the bed of Lake Carey (CWF) and to expand the reservoir by removing and relocating a stone retaining wall 2 feet landward for the purpose of increasing the mooring area around an existing private recreational dock. The project is located along the eastern shore of the lake approximately 0.75 mile north of S.R. 1003 (Tunkhannock, PA Quadrangle N: 18.0 inches; W: 7.2 inches).

E13-129. Timothy J. Carter, 635 Stagecoach Road West, Lehighton, PA 18235, in Towamensing Township, **Carbon County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain an open-bottom concrete box culvert, having a span of 8 feet and an underclearance of 4.5 feet across Bull Run (HQ-CFW); and to construct and maintain a channel change, having a length of approximately 200 feet in Bull Run, consisting of concrete walls along both banks. The project is located 0.5 mile southwest of the intersection of S.R. 2001 and Stagecoach Road. (Palmerton, PA Quadrangle N: 18.2 inches; W: 14.3 inches).

E40-586. Peter and Dolores Valania, 405 Alden Mountain Road, Nanticoke, PA 18634, in Newport Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To place fill in a de minimis area of wetlands equal to 0.05 acre for the purpose of constructing a home. The project is located on Lot No. 13, along the west side of Alden Mountain Road (S.R. 3001), to the east of Fairchild Pond. (Nanticoke, PA Quadrangle N: 8.1 inches; W: 0.6 inch).

E40-587. Russell L. Dado, 12 North Mountain Boulevard, Mountaintop, PA 18707, in Fairview Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To construct and maintain a building addition (having a footprint of 20 feet x 20.5 feet), associated parking areas and an access drive and a stormwater outfall swale, in the floodway along the left bank of Big Wapwallopen Creek (CWF). The project is located along the west side of S.R. 0309 (12 North Mountain Boulevard). (Wilkes-Barre West, PA Quadrangle N: 6.9 inches; W: 1.5 inches).

E45-426. Price Township Development Corporation, One Empire Plaza, Stroudsburg, PA 18360, in Price and Smithfield Townships, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain one road crossing in Michael Creek (HQ-CWF) and adjacent wetlands and three road crossings in tributaries to Michael Creek (HQ-CFW) and adjacent wetlands for the purpose of providing access to a proposed 137-acre planned residential development known as The Highlands at Rob Roy. The total wetland impact associated with the four road crossings is 0.44 acre. The project is located southeast of the intersection of Township Road T556 (Woodale Road) and S.R. 1005 (Schoolhouse Road). (East Stroudsburg, PA Quadrangle N: 12.5 inches; W: 8.5 inches).

E40-588. James Kozemchak, R. R. 3, Box 120, Harveys Lake, PA 18618, in Harveys Lake Borough, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To modify and maintain an existing dock in Harveys Lake, with work consisting of eliminating an existing 16-foot x 25-foot open area, restoring this area to its previous, covered condition. The dock has overall dimensions of approximately 1,500 square feet and is located at Pole 258. (Harveys Lake, PA Quadrangle N: 19.1 inches; W: 5.8 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E06-563. Eileen Pinder, Douglass Township, 1068 Douglass Drive, Boyertown, PA 19512 in Douglass Township, **Berks County**, ACOE Philadelphia District

To remove an existing cut stone arch culvert 8-foot, 4-inch wide by 6-foot, 2 1/2-inch high and to construct and maintain a concrete box culvert 8-foot by 6-foot at a

point along Redshale Drive (T-481) across an unnamed tributary to Ironstone Creek (TSF) (Boyertown, PA Quadrangle N: 9.4 inches; W: 6.6 inches) in Douglass Township, Berks County.

E21-337. Steve Campbell, Hampden Township Sewer Authority, 230 S. Sporting Hill Road Mechanicsburg, PA 17055 in Hampden and East Pennsboro Townships, **Cumberland County**, ACOE Baltimore District

To construct and maintain: (1) two sanitary sewer line crossings in Pine Run, four sanitary sewer line crossings of associated wetlands along Pine Run and two ford crossings in Pine Run (WWF); (2) one sanitary sewer line crossing in Sears Run (WWF); (3) one sanitary sewer line crossing of an unnamed tributary to Pine Run (WWF); and (4) one ford crossing in Holtz Run (WWF) all for the purpose of constructing the Pine Run Interceptor and Pumping Station project located on the eastern side of Interstate Route 81 at the Wertzville Road interchange and situated north and south of Wertzville Road SR 0944 (Harrisburg West, PA Quadrangle N: 6.5 inches; W: 13.0 inches) in Hampden and East Pennsboro Townships, Cumberland County.

E21-338. Louis Marinacci, South Middletown Township Municipal Authority, P. O. Box 8 Boiling Springs, PA 17007 in South Middletown Township, **Cumberland County**, ACOE Baltimore District.

To construct and maintain a sanitary sewer line crossing of the Yellow Breeches Creek (HQ-CWF) for the purpose of constructing 15,400 linear feet of a new 4-inch diameter sanitary sewer force main, 1,300 linear feet of a new 8-inch diameter sanitary sewer gravity main along Creek Road (Carlisle, PA Quadrangle N: 2.3 inches; W: 3.3 inches) in South Middletown Township, Cumberland County.

E31-180. Vicki Harshbarger, Smithfield Township, Mt. Vernon Avenue and 13th Street, Huntingdon, PA 16652 in Smithfield Township, **Huntingdon County**, ACOE Baltimore District.

To maintain the existing Smithfield Flood Protection Project along the Juniata River (WWF) and Crooked Creek (WWF) at a point near Route 22 (Huntingdon, PA Quadrangle N: 19.3 inches; W: 2.6 inches) in Smithfield Township, Huntingdon County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E14-415. Pennsylvania Electric Company, 2800 Pottsville Pike, Reading, PA 19612-6001. Small Projects Joint Permit Application, in Snowshoe Township, **Centre County**, ACOE Susquehanna River Basin District (Karthaus, PA Quadrangle N: 2.9 inches; W: 3.1 inches).

To construct and maintain 280 feet of aerial electric line crossing over Black Moshannon Creek designated a High Quality-Cold Water Fishery. This project does not propose to impact any jurisdictional wetlands.

E19-223. James W. Knorr, 7295 Old Berwick Road, Bloomsburg, PA 17815. Quarry Filling, in Montour Township, **Columbia County**, ACOE Baltimore District (Danville, PA Quadrangle N: 18.50 inches; W: 2.25 inches).

To fill in a 30 acre abandoned limestone quarry with stable fill material. The project is located off Quarry Drive 0.25 mile from the intersection of Quarry Drive with Route 11. Runoff from the project area will enter an unnamed tributary to Montour Run. Montour Run is a

cold water fisheries stream. The project will not impact wetlands while impacting approximately 60 feet of waterway.

E41-498. Lycoming County Water and Sewer Authority, 216 Old Cement Road, Montoursville, PA 17754. Lycoming County Wastewater Collection Expansion, in Muncy Township, **Lycoming County**, ACOE Baltimore District (Muncy, PA Quadrangle N: 18.5 inches; W: 6.4 inches).

To construct, operate and maintain 11.33 miles of sanitary sewer line within the Susquehanna River watershed (Warm Water Fishery) for the treatment of municipal wastewater. Construction of the sanitary sewer lines will require the six stream crossings that are as follows:

<i>Stream Name</i>	<i>Number of Crossings</i>	<i>Total Length of Crossings</i>
Wolf Run	1	88.0 feet
Unnamed tributaries—		
Wolf Run	2	68.5 feet
Carpenters Run	2	87.0 feet
Turkey Run	1	33.5 feet
Tules Run	1	79.5 feet

All sewer line crossings shall be constructed with a minimum of 3-feet of cover with concrete encasement beneath the waterways. Trench plugs or clay dikes shall be used at every sewer line crossing a waterway to ensure the hydrology of the streams is not altered. Construction of the Industrial Park Pumping Station will require the placement of fill in the floodway of Wolf Run (Cold Water Fishery). The project will not impact wetlands while impacting 356.50-feet of waterway. The project is located along the northern and southern right-of-way of SR 2014 approximately 12.0-miles east of SR 2014 and Old Cement Road intersection.

E41-500. Pennsylvania Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. SR 2071 Bryan Mill bridge replacement, in Wolf Township, **Lycoming County**, ACOE Susquehanna River Basin District (Picture Rocks, PA Quadrangle N: 2.5 inches; W: 12.9 inches).

To remove an existing structure and construct and maintain a two span adjacent box beam bridge having a span of 150.0 feet and a minimum underclearance of 14.25 feet with a skew of 83° in Muncy Creek (Trout Stocked Fishery). The project is located along SR 2017 approximately 0.2 mile west of SR 0220 and SR 2017 intersection in Wolf Township, Lycoming County. The constructed bridge will have a minimal impact on wetlands while impacting 150-feet of waterway.

E41-501. Keith Edler, 484 Knipe Road, Liberty, PA 16930. Water Obstruction and Encroachment Permit Application in Pine Township, **Lycoming County**, ACOE Susquehanna River Basin District (English Center, PA Quadrangle N: 9.96 inches; W: 7.53 inches).

To remove and maintain a gravel bar measuring 400 feet by 92 feet in Little Pine Creek located along the northern right-of-way of SR 4001, 1.5 miles west of the intersection of SR 0287 and SR 4001. This project proposes to have a minimal impact on 400 linear feet Little Pine Creek, which is designated a Cold Water Fishery and a stream which supports Wild Trout. The project does not propose to impact any jurisdictional wetlands.

E49-258. Pennsylvania Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. Watsonstown bridge re-

placement, in Watsonstown Borough, **Northumberland County**, ACOE Susquehanna River Basin District (Milton, PA Quadrangle N: 2.5 inches; W: 12.9 inches).

To rehabilitate an existing structure in the West Branch of the Susquehanna River (Warm Water Fishery) and White Deer Creek (High-Quality Cold Water Fishery). The project is located along SR 1014 approximately 250 feet west of SR 0405 and SR 1014 intersection in Watsonstown Borough, **Northumberland County**. The rehabilitated bridge will temporarily impact 0.21 acre of wetlands while temporarily impacting 800-feet of waterway.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1370. Monte Cello's Italian Restaurant, Inc., 2198 Babcock Boulevard, Pittsburgh, PA 15209. Ross Township, **Allegheny County**, ACOE Pittsburgh District.

To operate and maintain a 5' diameter concrete culvert approximately 80' long in a tributary to Girtys Run (WWF) locally known as Thompson Run. The culvert is located under an existing parking lot in the northeast corner of Babcock Boulevard and Thompson Run Road. The original culvert was replaced under Emergency Permit No. EP0202201 issued on February 20, 2002 (Glenshaw, PA Quadrangle N: 2.0 inches; W: 16.5 inches).

E11-294. Pennsylvania Department of Transportation, Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648. Reade and White Townships, **Cambria County**, ACOE Baltimore District.

To remove the existing structure and to construct and maintain a prestressed concrete spread box beam bridge having a single, clear, normal span of 89.3 feet and an underclearance of 15.6 feet over Clearfield Creek (WWF) and to place and maintain fill in 0.003 acre of PSS/PEM wetland for the purpose of improving highway safety. The project is located on S.R. 1023 in the Village of Fallentimber. The wetlands have been replaced at State Gamelands 108. (Blandburg, PA Quadrangle N: 10.9 inches; W: 17.2 inches).

E26-292. Pennsylvania Department of Transportation, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401. Dunbar Township, **Fayette County**, ACOE Pittsburgh District.

To extend and maintain an existing 8.0 meter long, 1.60 meter x 1.17 meter box culvert for a distance of 2.54 meters upstream and 2.38 meters downstream in an unnamed tributary to the Youghiogheny River (WWF). The inverts of the culvert extensions will be depressed 0.3 meter. Also to relocate and maintain 392.0 meters of stream channel from Station 2+006.041 to Station 2+325 LEFT and to construct and maintain a 257.0 meter long, 900 mm diameter pipe from Station 2+325 to Station 0+340 LEFT in an unnamed tributary to the Youghiogheny River (WWF). Also to construct and maintain a 571.0 meter long, 900 mm diameter pipe from Station 2+006.041 to Station 0+340 RIGHT in an unnamed tributary to the Youghiogheny River and to place and maintain fill in a de minimis area of PEM wetland equal to 0.007 hectare for the purpose of improving highway safety. The project is located on S.R. 0201 just west of its intersection with Township Road 742 (Connessville, PA Quadrangle N: 4.1 inches; W: 16.8 inches).

E63-527. Montour Trail Council, P. O. Box 11866, Pittsburgh, PA 15228. Peters Township, **Washington County**, ACOE Pittsburgh District.

To construct and maintain two pedestrian bridges across the channel of Brush Run (WWF) one having a span of 83.0 feet with a minimum underclearance of 9.0 feet located approximately 450 feet north from the intersection of Valley Brook Road and S.R. 19 and one having a span of 157.0 feet with a minimum underclearance of 15.6 feet located approximately 900 feet north from the intersection of S.R. 19 and Valley Brook Road for the purpose of constructing the Montour Trail a bike/pedestrian trail (Bridgeville, PA Quadrangle N: 7.7 inches; W: 14.9 inches).

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E10-355 Butler County Planning Commission, P. O. Box 1208, Butler, PA. 16003-208 T.R. 340, Across Crab Run, in Connoquenessing Township, **Butler County**, ACOE Pittsburgh District (Evans City, PA Quadrangle N: 19.5 inches; W: 8.8 inches)

To remove the existing structure and to construct and maintain a Steel I-Beam bridge with concrete abutments and wingwalls and steel beams supporting a Glu Lam timber decking system, having a clear span of 30 feet and an underclearance of 6.75 feet across Crab Run on T.R. 340.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D13-001A. Lake Hauto Club, 140 Maple Terrace Road, Nesquehoning, PA 18240. Nesquehoning Borough, **Carbon County**, ACOE Philadelphia District.

Project proposes to construct improvements to the Lake Hauto Dam including armoring the dam crest and downstream slope and renovating the spillway channel. Improvements will not change the normal pool elevation of the reservoir. The improvements will directly impact approximately 0.17 acre of wetlands (PEM). The dam is located across Nesquehoning Creek (HQ-WWF) (Tamaqua, PA Quadrangle, N: 17.45 inches, W: 3.40 inches).

ACTIONS

FINAL ACTIONS TAKEN UNDER THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT—NPDES AND WQM PART II PERMITS

INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications and requests for plan approval.

Persons aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service,

(800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge this action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. Municipal and Industrial Permit Actions under The Clean Streams Law Act (35 P.S. §§ 691.1— 691.1001).

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

NPDES Permit No. PA0053775, Sewage, **Thomas and Maureen Scheuerman**, 321 North Feathering Road, Media, PA 19063. This proposed facility is located in Upper Providence Township, **Delaware County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary of Ridley Creek.

NPDES Permit No. PA0054721, Sewage, **Joseph and Sondra McGeever**, 2390 North Feathering Road, Media, PA 1963. This proposed facility is located in Upper Providence Township, **Delaware County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary of Ridley Creek-Ridley 3G.

WQM Permit No. 2301408, Sewerage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3689. This proposed facility is located in Newtown Township, **Delaware County**.

Description of Proposed Action/Activity: Construction and operation of a sewage treatment plant to serve the proposed Somerset land development.

WQM Permit No. 1501422, Sewerage, **Upper Uwchlan Township Municipal Authority**, 140 Pottstown Pike, Chester Springs, PA 19428. This proposed facility is located in Upper Uwchlan Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a sewage treatment plant to serve the St. Andrews Brae Subdivision.

WQM Permit No. 0995403 Amendment No. 1, Sewerage, **Bucks County Water and Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976. This proposed facility is located in Doylestown Borough, **Bucks County**.

Description of Proposed Action/Activity: Approval for modifications and upgrade of existing pump station at Cooks Run Interceptor to increase capacity.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

NPDES Permit No. PA-0013650, Industrial Waste, **Chamberlain Manufacturing Corporation**, 156 Cedar Avenue, Scranton, PA 18505-1138. This proposed facility is located in Scranton City, **Lackawanna County**.

Description of Proposed Action/Activity: NPDES permit renewal to discharge stormwater from the manufacturing facility (SIC Code 3483) into Roaring Brook.

NPDES Permit No. PA-0060887, Sewage, **Tafton Diner & Sandy Beach Motel**, Box 150, Hawley, PA 18428. This proposed facility is located in Palmyra Township, **Pike County**.

Description of Proposed Action/Activity: to renew NPDES Permit.

WQM Permit No. 4801403, Sewerage, **East Allen Township Municipal Authority**, 5340 Nor-Bath Boulevard, Northampton, PA 18067. This proposed facility is located in East Allen Township, **Northampton County**.

Description of Proposed Action/Activity: Applicant is authorized to construct a pump station, a gravity sewer collection system and a force main to serve the Village of Old Jacksonville, in East Allen Township.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

NPDES Permit No. PA0024040, Sewage, **Borough of Highspire**, 640 Eshelman St., Highspire, PA 17034-1698. This proposed facility is located in Highspire Borough, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to Susquehanna River in Watershed 7-C.

NPDES Permit No. PA0088048, Amendment No. 2, Sewage, **Borough of New Morgan**, Building D, Room 3, Grace Boulevard, Morgantown, PA 19543. This proposed facility is located in New Morgan Borough, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Conestoga River in Watershed 7-J.

NPDES Permit No. PA0087017, Sewerage, **Lower Paxton Township Authority**, 75 Houcks Road, Room 200, Harrisburg, PA 17109. This proposed facility is located in Lower Paxton Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of Beaver Creek in Watershed 7-D.

NPDES Permit No. PA0021491, Sewerage, **Williamstown Borough Sewer Authority**, Williamstown Borough STP, P. O. Box 44, Williamstown, PA 17098. This proposed facility is located in Williams Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to Wiconisco Creek in Watershed 6-C.

NPDES Permit No. PA0026620, Sewerage, **Borough of Millersville**, 10 Colonial Avenue, Millersville, PA 17551. This proposed facility is located in Manor Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Conestoga River in Watershed 7-J.

NPDES Permit No. PA0021245, Sewerage, **Borough of Duncannon**, 428 North High Street, Duncannon, PA 17020. This proposed facility is located in Duncannon Borough, **Perry County**.

Description of Proposed Action/Activity: Authorization to discharge to Susquehanna River in Watershed 7-A.

NPDES Permit No. PA0083721, Sewerage, **Jacob L. Miller, Jr.**, 1124 Lake Road, Spring Grove, PA 17362-8813. This proposed facility is located in Paradise Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Beaver Creek in Watershed 7-F.

NPDES Permit No. PA0085405 and WQM Permit No. 0193405 (02-1), Sewerage, **Suzanne Lanky, Suzinn, LLC**, 40 Hospital Road, Gettysburg, PA 17325. This proposed facility is located in Cumberland Township, **Adams County**.

Description of Proposed Action/Activity: Transfer of Permits with continued authorization to discharge to UNT of Rock Creek in Watershed 13-D.

NPDES Permit No. PA0080438 and WQM Permit No. 3674409 (01-1), Sewerage, **Northern Lancaster County Authority**, 983 Beam Road, Denver, PA 17517. This proposed facility is located in Brecknock Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization of continued discharge to Muddy Creek in Watershed 7-J and Re-rating of Beam Road Sewage Treatment Plant.

WQM Permit No. 2295402, Transfer, Sewerage, **Lower Paxton Township**, 75 South Houcks Road, Room 200, Harrisburg, PA 17109. This proposed facility is located in Lower Paxton Township, **Dauphin County**.

Description of Proposed Action/Activity: Approval for Permit Transfer.

NPDES Permit No. PA0008265, Industrial Waste, **Appleton Papers, Inc.**, 100 Paper Mill Road, Roaring Springs, PA 16673-1488. This proposed facility is located in Blair Township, **Blair County**.

Description of Proposed Action/Activity: Authorization to discharge to Frankstown Branch Juniata River in Watershed 11-A.

NPDES Permit No. PA0084816, Transfer, Industrial Waste, **Sunoco Logistics Partners Operations, GP, LLC**, 1801 Market Street (10 PC), Philadelphia, PA 19103-1699. This proposed facility is located in Spring Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Cacoosing Creek in Watershed 3-C.

NPDES Permit No. PA0087840, Transfer, Industrial Waste, **JMH, Inc.**, 1090 Spring Street, Wyomissing, PA 19610. This proposed facility is located in Muhlenberg Township, **Berks County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to dry swale in watershed 3-C.

NPDES Permit No. PA0008541, Industrial Waste, **York International**, 631 S. Richland Avenue, York, PA 17403. This proposed facility is located in Spring Garden Township, **York County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge Codorus Creek in Watershed 7-H.

NPDES Permit No. PA0246417, Industrial Waste, **Harold E. Miller, State Line Sales, Inc.**, 2632 Robert Fulton Highway, Peach Bottom, PA 17563. This proposed facility is located in Fulton Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT of Conewago Creek in Watershed 7K.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

NPDES Permit No. PAS144813, Industrial Stormwater, SIC 3272, **Centre Concrete Company**, P. O. Box 859, State College, PA 16804-0859. This facility is located in College Township, **Centre County**.

Description of Proposed Action/Activity: Stormwater discharge from ready-mix concrete processing facility.

NPDES Permit No. PA0209457, Industrial Waste, **CraftMaster Manufacturing, Inc.**, P. O. Box 311, Towanda, PA 18848. This existing facility is located in Wysox Township, **Bradford County**.

Description of Proposed Action/Activity: Renewal of the permit for the discharge of industrial wastewater from a water demineralizer.

NPDES Permit No. PA0027171, Sewage, **Bloomsburg Municipal Authority**, 301 W. Main Street, Bloomsburg, PA 17815. This existing facility is located in the Town of Bloomsburg, **Columbia County**.

Description of Proposed Action/Activity: This action was for the amendment of the NPDES permit to require the development of an Industrial Waste Pretreatment program.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0203963, Industrial Waste, **Washington Penn Plastics, Inc.**, 2080 N. Main Street, Washington, PA 15301 is authorized to discharge from a facility located at Performance Products Division, South Strabane Township, **Washington County** to receiving waters named unnamed tributary to Little Chartiers Creek.

NPDES Permit No. PA0095907, Sewage, **Albert Gallatin Area School District**, 10 West Church Street, Masontown, PA 15461-1800 is authorized to discharge from a facility located at Plava Elementary School Sewage Treatment Plant, German Township, **Fayette County** to receiving waters named unnamed tributary of North Branch Browns Run known locally as Parshall Run.

NPDES Permit No. PA0095982, Sewage, **Albert Gallatin Area School District**, 10 West Church Street, Masontown, PA 15461-1800 is authorized to discharge from a facility located at Albert Gallatin North Middle (formerly North Junior High) School STP, German Township, **Fayette County** to receiving waters named unnamed tributary of North Branch Browns Run.

NPDES Permit No. PA0097811, Sewage, **Dry Tavern Sewer Authority**, P. O. Box 159, Rices Landing, PA 15357 is authorized to discharge from a facility located at Dry Tavern Sewer Authority Sewage Treatment Plant, Jefferson Township, **Greene County** to receiving waters named unnamed tributary of Pumpkin Run.

NPDES Permit No. PA0098981, Sewage, **Dean E. Molter**, 187 Becks Run Road, Moon Township, PA 15108 is authorized to discharge from a facility located at the Dean E. Molter Single Residence STP, Moon Township, **Allegheny County** to receiving waters named unnamed tributary of Flaugherty Run.

NPDES Permit No. PA0205451, Sewage, **Lawrence G. Schwartz**, 110 North Lane, Sewickley, PA 15143 is authorized to discharge from a facility located at

Schwartz MHP STP, Economy Borough, **Beaver County** to receiving waters named Big Sewickley Creek.

NPDES Permit No. PA0217271, Sewage, **Ohio Township Sanitary Authority**, 1719 Roosevelt Road, Pittsburgh, PA 15237 is authorized to discharge from a facility located at Kilbuck Run Sewage Treatment Plant, Sewickley Hills Borough, **Allegheny County** to receiving waters named Kilbuck Run.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

NPDES Permit No. PA0103926, Industrial Waste, **Component Inter Technologies, Inc.**, 2426 Perry Highway, Hadley, PA 16130-2998. This proposed facility is located in Perry Township, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary of Little Shenango River.

NPDES Permit No. PA0020095, Industrial Waste, **Thomas and Betts Reznor**, 150 McKinley Avenue, Mercer, PA 16137. This proposed facility is located in Mercer Borough, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Munnell Run and Otter Creek.

NPDES Permit No. PA0238546, Industrial Waste, **Ellwood City Forge**, P. O. Box 31, Ellwood City, PA 16117. This proposed facility is located in Ellwood City Borough, **Lawrence County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Connoquenessing Creek.

NPDES Permit No. PA0102326, Sewage, **Department of Corrections, State Regional Correctional Facility at Mercer**, 801 Butler Pike, Mercer, PA 16137. This proposed facility is located in Findley Township, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Neshannock Creek.

NPDES Permit No. PA0104353, Sewage, **Lemick, Inc.**, Oakleaf Estates Manufactured Home Park, 9 Corporation Center, Broadview Heights, OH 44147. This proposed facility is located in Shenango Township, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary of the Shenango River.

NPDES Permit No. PA0026174, Sewage, **The General Authority of the City of Franklin**, City Hall, 430 Thirteenth Street, Franklin, PA 16323-1317. This proposed facility is located in the City of Franklin, **Venango County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to French Creek and the Allegheny River.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 6201411, Sewerage, **Everett Rhoades**, R. R. #3, Box 3212, Russell, PA 16346. This proposed facility is located in Sugar Grove Township, **Warren County**.

Description of Proposed Action/Activity: This project is for a single residence.

WQM Permit No. 1001407, Sewerage, **Jenny McKeag**, 111 Venango Trail, Slippery Rock, PA 16057. This proposed facility is located in Slippery Rock Township, **Butler County**.

Description of Proposed Action/Activity: This project is for a single residence.

WQM Permit No. 3702402, Sewerage, **Richard D. Mooney**, R. R. 5, Box 225, New Castle, PA 16105. This proposed facility is located in Neshannock Township, **Lawrence County**.

Description of Proposed Action/Activity: This project is for a single residence.

NPDES STORMWATER INDIVIDUAL PERMITS—(PAS)

The following NPDES Individual Permits for Discharges of Stormwater Associated with Construction Activities have been issued.

Persons aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel

Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge this action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

<i>NPDES Permit</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10X098	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106-7676	Westmoreland County Donegal Borough Donegal Township Mount Pleasant Township	Indian Creek/HQ-CWF Jacobs Creek/CWF Champion Creek /CWF Fourmile Run/TSF Jacobs Creek/TSF Indian Creek/TSF

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10E075	Acorn Woods Development Acorn Enterprises Sherry Kyne 1031 New Castle Road P. O. Box 465 Prospect, PA 16052	Butler County	Franklin Township	Tributary to Muddy Creek (CWF)

APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS

The following parties have submitted: (1) Notices of Intent for Coverage under (1) General NPDES Permits to Discharge Wastewater into the Waters of the Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations. Monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in this Commonwealth; (3) General NPDES Permit Authorizing the Discharge of Stormwater Associated with Construction Activities to Waters of the Commonwealth; (4) Notification for First Use Application of Sewage Sludge.

The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. The Department of Environmental Protection approves the following coverage under the specific General Permit.

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)

General Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Codorus Township Jefferson Borough York County	PAR10Y558	Codorus Estates Hickory Heights Inc. R. D. 1 Box 1550 Spring Grove, PA 17362	Buffalo Valley Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Newberry Township Conewago Township York County	PAR10Y572	Conewago Heights Sanitary Sewer Extension Newberry Township Anne Baucum 1915 Old Trail Road Etters, PA 17319	Big Conewago NL	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Broad Top Township Bedford County	PAR100460	Broad Top Township 187 Municipal Road P. O. Box 57 DeFiance, PA 16633-0057	Six Mile Run WWF	Bedford County Conservation District 702 W. Pitt Street Suite 4 Bedford, PA 15522 (814) 623-8099
Centre County Burnside and Snow Shoe Townships	PAR10F156	Litke Tract 706 SGL 255 Airport Rd. P. O. Box 1378 Indiana, PA 15701	Little Sandy Run CWF	Centre County Conservation District 414 Holmes Ave. St. 4 Bellefonte, PA 16823 (814) 355-8696
Tioga County Morris Township	PAR106640	Babb Creek Watershed Assoc. 2538 Rt. 405 Hwy. Muncy, PA 17756	Point Run, Black Run, tributary to Stony Fork/Babb Creek CWF	Tioga County Conservation District 29 East Ave. Wellsboro, PA 16901 (570) 724-1801
Crawford County Vernon Township Union Township Greenwood Township	PAR102321	Pennsylvania Department of Transportation Karl D. Ishman P. O. Box 398 Oil City, PA 16301	Tributaries to French Creek (WWF) Tributaries to Conneaut Outlet	Crawford County Conservation District (814) 724-1793
Crawford County Vernon Township	PAR102322	Crawford County Development Corporation Stephen R. Hall 18257 Industrial Drive Meadville, PA 16335	French Creek (WWF)	Crawford County Conservation District (814) 724-1793

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Elk County Ridgway Borough	PAR102527	Department of Environmental Protection Bureau of Abandoned Mine Reclamation Rachel Carson State Office Building P. O. Box 8476 Harrisburg, PA 17105-8476	Clarion River (CWF) Elk Creek (CWF)	Elk County Conservation District (814) 776-5373
Elk County Fox Township	PAR102528	Manno Construction, Inc. R. R. 2, Box 249 G Ridgway, PA 15853	Little Toby Creek (CWF)	Elk County Conservation District (814) 776-5373
<i>General Permit Type—PAG-3</i>				
<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Berks County Reading City	PAR213544	IFS Industries, Inc. 400 Orrton Avenue P. O. Box 1053 Reading, PA 19603	UNT to Schuylkill River	DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Bloomsburg Columbia County	PAR124806	Bernardi Italian Foods 595 West 11th Street Bloomsburg, PA 17815	Susquehanna River (WWF)	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Greenwood Township Crawford County	PAR238321	J-M Manufacturing Company, Inc. 9 Peach Tree Hill Road Livingston, NJ 07039	Unnamed tributary to Conneaut Outlet	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Washington Township Clarion County	PAR238328	Clarion Bathware 205 Amsler Avenue Shippensburg, PA 16254	East Sandy	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
City of Erie Erie County	PAR508304	Waste Management of Pennsylvania, Inc. 975 Robison Road East Erie, PA 16509	Tributary to Cascade Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
<i>General Permit Type—PAG-4</i>				
<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Berks County Caernarvon Township	PAG043688	Greg Pilon Lot #2 1475 Elverson Rd. Elverson, PA 19520	UNT Conestoga River/7J	DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Sugar Grove Township Warren County	PAG048784	Everett Rhoades R. R. 3, Box 3212 Russell, PA 16346	Unnamed tributary to Matthews Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Slippery Rock Township Butler County	PAG048738	Jenny McKeag 111 Venango Trail Slippery Rock, PA 16057	Slippery Rock Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Neshannock Township Lawrence County	PAG048791	Richard D. Mooney R. R. 5, Box 225 New Castle, PA 16105	Unnamed tributary to Neshannock Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-8

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Telephone No.</i>
Frederick, MD	PAG08-9904	Frederick City Wastewater Treatment Plant 111 Airport Road East Frederick, MD 21701	Frederick City Wastewater Treatment Plant 111 Airport Road East Frederick, MD 21701	BWSWM (717) 787-8184

General Permit Type—PAG-12

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Granville Township Bradford County	PAG124811	Matthew L. McClellan R. R. 1, Box 181 Granville Summit, PA 16926	North Branch Towanda Creek (CWF)	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666

PUBLIC WATER SUPPLY PERMITS

The Department of Environmental Protection (Department) has taken the following actions on applications received under the Safe Drinking Water Act for the construction, substantial modification or operation of a public water system.

Persons aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501–508 and 701–704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the

Pennsylvania Bulletin, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge this action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Operations Permit issued to **Pinecrest Development Corporation**, P. O. Box 760, Pocono Pines, PA 18350, Tobyhanna Township, **Monroe County** on February 21, 2002.

Operations Permit issued to **Sweet Arrow Springs, LLC**, 20th and Herr Streets, P. O. Box 2001, Harrisburg, PA 17105, Pine Grove Township, **Schuylkill County** on February 25, 2002.

Operations Permit issued to **Pennsylvania-American Water Company**, 20 East Union Street, Wilkes-Barre, PA 18701, Forest City, **Susquehanna County** on February 19, 2002.

Operations Permit issued to **Pennsylvania-American Water Company**, 800 West Hershey Park Drive, Hershey, PA 17033, Bridgewater Township, **Susquehanna County** on February 13, 2002.

Operations Permit issued to **Eagle Springs, Inc.**, 88 West Donaldson Street, Tremont/Zerbe, PA 17981, Hegins Township, **Schuylkill County** on January 31, 2002.

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 0100504, Public Water Supply.

Applicant	Gettysburg Municipal Authority
Municipality	Straban Township
County	Adams
Type of Facility	The Department issued an Operation Permit for an 800 gallon per minute finished water booster pump station. The station was installed to supply finished water from the Gettysburg Municipal Authority to the Adams County Commerce Center and standpipe.
Consulting Engineer	Gene C. Koontz, P.E. Gannett Fleming, Inc. P. O. Box 67100 Harrisburg, PA 17106-7100
Permit to Operate Issued:	February 6, 2002

Permit No. 2801507, Public Water Supply.

Applicant	Lincoln Utilities Incorporated
Municipality	Antrim Township
County	Franklin

Type of Facility

A Construction Permit for proposed modifications to existing water treatment facilities. Modifications will include installation of two pressure filters, chemical feed equipment and chlorine disinfection to meet the requirements of the Pennsylvania Filter Rule.

Consulting Engineer

Gene C. Koontz, P.E.
Gannett Fleming, Inc.
P. O. Box 67100
Harrisburg, PA 17106-7100

Permit to Construct Issued:

February 11, 2002

Permit No. 0601509, Public Water Supply.

Applicant

Muhlenberg Township Authority

Municipality

Ontelaunee Township

County

Berks

Type of Facility

New well 15 (250 gpm) with disinfection.

Consulting Engineer

Gene C. Koontz, P.E.
Gannett Fleming, Inc.
P. O. Box 67100
Harrisburg, PA 17106-7100

Permit to Construct Issued:

February 11, 2002

Permit No. 0601517, Public Water Supply.

Applicant

Pennsylvania American Water Company

Municipality

Amity Township

County

Berks

Type of Facility

Reconstruction of Douglasville Well 12 and rerating to 120 gallons per minute.

Consulting Engineer

Steven E. Riley, P.E.
Spotts Stevens and McCoy
345 North Wyomissing Boulevard
Reading, PA 19530-0307

Permit to Construct Issued:

February 19, 2002

Permit No. 0601512 MA, Minor Amendment, Public Water Supply.

Applicant

Wissahickon Spring Water, Inc.

Municipality

Kutztown

County

Berks

Type of Facility

Use of Pine Valley Farms Spring No. 1 as a source of supply.

Permit to Operate Issued:

February 6, 2002

Permit No. 3601515, Public Water Supply.

Applicant

Two Stewards d/b/a Cameron Estate Inn

Municipality

East Donegal Township

County

Lancaster

Type of Facility Addition of a nitrate treatment system, softening and UV disinfection treatment to serve the Inn.

Consulting Engineer Mark Hilson, P.E.
ARRO Consulting
270 Granite Run Drive
Lancaster, PA 17601

Permit to Construct Issued: February 19, 2002

Permit No. 0601514, Public Water Supply.

Applicant **Muhlenberg Township Authority**

Municipality Muhlenberg Township

County **Berks**

Type of Facility Rerate of Well 13 from 200 gpm to 350 gpm.

Consulting Engineer Robert A. Stark, P.E.
Gannett Fleming Inc.
P. O. Box 67100
Harrisburg, PA 17106-7100

Permit to Operate Issued: February 19, 2002

Permit No. 7380417, Public Water Supply.

Applicant **Fredericksburg United Methodist Church**

Municipality Bethel Township

County **Lebanon**

Type of Facility Operation of a cation exchange (softening) system and an anion exchange system for nitrate-removal for an existing well source for the church building and parsonage.

Consulting Engineer Charles A. Kehew II, P.E.
James R. Holley & Assoc., Inc.
18 South George St.
York, PA 17401

Permit to Operate Issued: February 19, 2002

Permit No. 3601516, Public Water Supply.

Applicant **The Jay Group**

Municipality East Lampeter Township

County **Lancaster**

Type of Facility Installation of anion exchange for the removal of high nitrates in the source water. Project will also involve the use of UV light system for disinfection.

Consulting Engineer Parley E. Hess Jr, P.E.
113 Liberty Street
Lancaster, PA 17602

Permit to Construct Issued: February 19, 2002

Permit No. 5001503, Public Water Supply.

Applicant **Perry Village Nursing Home**

Municipality Centre Township

County **Perry**

Type of Facility Construction Permit approving installation of zinc orthophosphate feed equipment for lead and copper corrosion control.

Consulting Engineer Gene C. Koontz, P.E.
Gannett Fleming, Inc.
P. O. Box 67100
Harrisburg, PA 17106-7100

Permit to Construct Issued: February 20, 2002

Permit No. 2299501, Public Water Supply.

Applicant **United Water Pennsylvania**

Municipality Susquehanna Township

County **Dauphin**

Type of Facility Operation of an onsite hypochlorination generation unit to generate 210 lb/day chlorine equivalent utilizing three 70 lb/day cells and a 2,000 and 2,550 gallon storage tank.

Consulting Engineer R. Michael Gephart, P.E.
United Water Pennsylvania
4211 East Park Circle
Harrisburg, PA 17111

Permit to Operate Issued: February 20, 2002

Permit No. 2299502, Public Water Supply.

Applicant **United Water Pennsylvania**

Municipality Susquehanna Township

County **Dauphin**

Type of Facility Operation of an onsite hypochlorination generation unit to generate 150 lb/day chlorine equivalent utilizing three 50 lb/day cells and two 1,500 gallon storage tanks.

Consulting Engineer R. Michael Gephart, P.E.
United Water Pennsylvania
4211 East Park Circle
Harrisburg, PA 17111

Permit to Operate Issued: February 20, 2002

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 1701504, Public Water Supply.

Applicant **Westover Municipal Authority**

121 North Main Street
P. O. Box 185
Westover, PA 16692-0185

Borough Westover Borough

County **Clearfield**

Type of Facility PWS—permit to construct a membrane filtration plant; disinfection, phosphate and caustic soda feeds; three system meter pits; customer meter replacement; and finished water storage tank rehabilitation.

Consulting Engineer Gwin, Dobson, & Foreman, Inc.
3121 Fairway Drive
Altoona, PA 16602

Permit to Construct Issued March 1, 2002

Permit No., Minor Amendment. Public Water Supply.

Applicant **Troy Borough**
110 Elmira Street
Troy, PA 16947-1202

Borough Troy Borough
County **Bradford**

Type of Facility PWS—permit for construction of a 500,000 gallon finished water storage tank and installation of 10,600 feet of 12" and 8" ductile iron pipe.

Consulting Engineer Larson Design Group, Inc.
P. O. Box 487
1000 Commerce Park Drive
Water Tower Square
Williamsport, PA 17703-0487

Permit to Construct Issued March 5, 2002

Permit No., Minor Amendment. Public Water Supply.

Applicant **Penn Township Municipal Authority**
12 Clifford Road
Selinsgrove, PA 17870

Township Penn Township
County **Snyder**

Type of Facility PWS—permit to operate fluoridation facilities for Well #1A.

Permit to Operate Issued February 28, 2002

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Plan Location: **Hidden Valley Scout Reservation**, Hidden Valley Road, Tyrone Township, **Perry County**.

The approved plan provides for the installation of a sanitary sewer system to collect all sewage generated at the camp and convey it to the Loysville Village Municipal Authority's facilities for the treatment. The Scout Council recently entered into an agreement with the Loysville Village Municipal Authority to connect and discharge up to 20,000 gallons per day of sewage to the Authority's system. Based on 400 gallons per day per equivalent dwelling unit (EDUs), this is equal to 50 EDUs. The projected population to be served by the project is equal

to 200 full-time occupants. Potable water for the Reservation is supplied by onsite wells owned and operated by the Scout Council. No new wells are proposed as part of the project.

Plan Location: **Southern Phase II—2002** (Creek Road, West Lisburn Road, Shuman Road, Meadow Lane, North Loop Road), Monroe Township, **Cumberland County**.

The approved plan provides for the installation of approximately 9,325 feet of low pressure sewer in the western portion of Monroe Township. Projected increased sewage flows are 14,175 gallons per day to be conveyed to the existing South Middleton Township Wastewater Treatment Plant. Sewer will run along a portion of the following roads: first area—Creek Road where it ties into Kuhn Road and second area—West Lisburn Road, Shuman Road, Meadow Lane and North Loop Road.

The plan provides for the change in the method of sewage disposal for three previously approved plans. They are Lisburn Meadows South, Lisburn Meadow Estates North and Mountain View Estates. These developments will be served by low-pressure sanitary sewer and onlot sewage disposal systems will be an interim method of sewage disposal.

Sewer service on North Loop Road in the first area and Creek Road in the second area would be implemented immediately. Implementation of the remainder of the additional service areas would be delayed for 12 years. Earlier implementation is acceptable under this plan approval.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site where one of the Act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Former Shultz Enterprises Property, Lots 5 and 6, Borough of Hanover, **York County.** Mountain Research, Inc., 825 25th Street, Altoona, PA 16601, on behalf of Crown American Properties, LP, Pasquerilla Plaza, Johnstown, PA 15907-0879, submitted a final report concerning remediation of site soils and groundwater contaminated with lead, BTEX and solvents. The report is intended to document remediation of the site to a combination of the Statewide Health and Background standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, Administration of the Land Recycling and Environmental Remediation Standards Act (Act) requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Act. Plans and reports required by provisions of the Act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of reuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Bensalem Redevelopment, L.P., Former Elf Atochem North America, Inc., Cornwell Heights Plant, **Bucks County.** C. Peter Barringer, Environmental Resources Management, 855 Springdale Drive, Exton, PA 19341, has submitted a revised Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning the remediation of site soil, groundwater and surface water contaminated with PCBs, lead, heavy metals, pesticides, solvents, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The report was approved by the Department on January 16, 2002.

World Savings Property, Bensalem Township, **Bucks County.** Andrew K. Markowski, P.G., Onesky Engineering, Inc., 210 Carter Dr., Suite 8, West Chester, PA 19382 on behalf of World Savings, 198 Washington Valley Rd., Warren, NJ 07059, has submitted a Final Report concerning the remediation of site soil contaminated with BTEX and polycyclic aromatic hydrocarbons. The report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 30, 2002.

Alfa Laval, Inc., Warminster Township, **Bucks County.** Patrick M. Hennessy, Alfa Laval Inc., 9201 Wilmot Rd., Kenosha, WI 53141-0840, has submitted a Final Report concerning the remediation of site soil contaminated with PCBs, lead, heavy metals, BTEX, polycyclic aromatic hydrocarbons, solvents and pesticides. The report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 31, 2002.

Broomell Residence, East Nottingham Township, **Chester County.** Thomas M. Hippensteel, P.G., Mid-Atlantic Associates, P.A., P. O. Box 1128, North Wales, PA 19454, on behalf of Edward and Mary Broomell, 695 Hopewell, Oxford, PA 19454, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with BTEX and petroleum hydrocarbons. The report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 18, 2002.

Former Fermtec Facility Areas F—M, West Chester Borough, **Chester County.** Richard P. Almquist, Jr., Oxford Engineers & Consultants, Inc., 2621 Van Buren Ave., Suite 500, Norristown, PA 19403, on behalf of Robert M. Casciato and Senya Simeon D. Isayeff Real Estate Partnership, 882 S. Matlack St., West Chester, PA 19382, has submitted an Addendum Final Report for Areas F—M, concerning the remediation of site soil contaminated with lead, heavy metals, solvents, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The addendum report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 28, 2002.

Triad Building, Upper Merion Township, **Montgomery County.** William A. Kovach, Environmental Waste Management Associates, 51 Everett Dr., Suite A-10, West Windsor, NJ 08550, on behalf of Triad Realty Associates, LP, c/o Gale & Wentworth, Director of Environmental Safety, 300 Campus Dr., Florham Park, NJ 07932, has submitted a Final Report concerning the remediation of site soil contaminated with ethylene glycol. The report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 16, 2002.

Binder Residence, Lower Moreland Township, **Montgomery County.** Andrew Dziedzic, Brinkerhoff Environ-

mental Services, Inc., 133 Jackson Rd., Suite D, Medford, PA, on behalf of Lucy Binder, Huntingdon Valley, PA has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with BTEX. The report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 28, 2002.

Former Murata-Wiedemann Facility, Upper Merion Township, **Montgomery County**. Peter A. Malik, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of 211 Gullroad Associates, LP, 1200 River Rd., Suite 1303, Conshohocken, PA 19428, has submitted a combined Risk Investigation, Risk Assessment Report and Cleanup Plan concerning the remediation of site groundwater contaminated with solvents. The reports were approved by the Department on February 20, 2002.

Former Modern Laundry Facility, City of Philadelphia, **Philadelphia County**. Charlene R. Drake, React Environmental Services, Inc., 6901 Kingsessing Ave., Philadelphia, PA 19142, on behalf of 41st and Market Sts., LLC, 654A Mount Rd., Aston, PA 19014, has submitted a Baseline Remedial Report for a Special Industrial Area, concerning the remediation of site soil and groundwater contaminated with lead, solvents and polycyclic aromatic hydrocarbons. The report was approved by the Department on January 4, 2002.

Transit Aide—North American Street, City of Philadelphia, **Philadelphia County**. James G. Gallagher, P.E., Pennoni Associates, Inc., 3001 Market St., Philadelphia, PA, on behalf of Transit Aide, Inc., 1602-44 North American St., Philadelphia, PA, has submitted a Baseline Environmental Report for a Special Industrial Area, concerning the remediation of site soil contaminated with lead and groundwater contaminated with lead, MTBE, VOC and SVOC. The report was approved by the Department on January 8, 2002.

Kurz-Hastings, Inc., City of Philadelphia, **Philadelphia County**. J. Anthony Sauder, P.E., P.G., Pennoni Associates, Inc., 3001 Market St., Suite 200, Philadelphia, PA 19154, on behalf of Kurz-Hastings, Inc., 10901 Dutton Rd., Philadelphia, PA 19154, has submitted a Remedial Investigation and Risk Assessment Report concerning remediation of site soil and groundwater contaminated with volatiles. The reports were approved by the Department on February 8, 2002.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Ruth E. Swope Estate, Conoy Township, **Lancaster County**. Alternative Environmental Solutions, 930 Pointview Avenue, Ephrata, PA 17522, on behalf of Julie A. Rodkey, Executrix, Estate of Ruth E. Swope, 4717 Cardinal Drive, Columbia, PA 17512, submitted a final report concerning the remediation of groundwater contaminated with BTEX. The final report demonstrated attainment of the Statewide Health standard and was approved by the Department on February 26, 2002.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Hazardous Waste Transporter License Renewed

M. S. Carriers, Inc., 3171 Directors Row, Memphis, TN 38131. License No. **PA-AH 0656**. Effective February 22, 2002.

MHF, Inc., 300 Grandview Blvd., Zelienople, PA 16063. License No. **PA-AH 0638**. Effective February 27, 2002.

Fortress Trucking Limited, 4230 Fountain Street North, Cambridge, ON Canada N3H 4R7. License No. **PA-AH 0512**. Effective February 27, 2002.

Frank's Vacuum Truck Service, Inc., 4500 Royal Avenue, Niagara Falls, NY 14303. License No. **PA-AH 0331**. Effective February 28, 2002.

Action Resources, Inc., 355 County Road 513, Hanceville, AL 35077. License No. **PA-AH 0650**. Effective March 04, 2002.

G. Tresch Transportation, Inc., 630 S. Evergreen Avenue, Woodbury, NJ 08097. License No. **PA-AH 0380**. Effective March 05, 2002.

Hazardous Waste Transporter License Expired

General Chemical Corporation, 138 Leland Street, Framingham, MA 01702. License No. **PA-AH 0374**. Effective February 28, 2002.

Action Resources, Inc., 355 County Road 513, Hanceville, AL 35077. License No. **PA-AH 0650**. Effective February 28, 2002.

Par-Tech, Inc., 287 Lackawanna Drive, Andover, NJ 07821. License No. **PA-AH 0581**. Effective February 28, 2002.

Metropolitan Environmental Inc., P. O. Box 378, Celina, OH 45822. License No. **PA-AH 0289**. Effective February 28, 2002.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 101584. Edward Armstrong and Sons, Inc., 205 Greenfield Road, Lancaster, PA 17601, East Lampeter Township, **Lancaster County**. The major permit modification was approved for the operation of the Municipal Waste Processing Facility. The permit was approved by the Southcentral Regional Office on February 1, 2002.

Persons interested in reviewing the general permit may contact Keith Kerns, Program Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 100281. Greenridge Reclamation Landfill, operated by Greenridge Reclamation, LLC, Box 717, Landfill Road, Scottdale, PA 15683. Operation of a municipal waste landfill in East Huntingdon Township, **Westmoreland County.** Permit modification to increase the permit boundary to include Borrow Area B was issued in the Regional Office on February 26, 2002.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

GP4-67-05072: Graham Architectural Products Corp. (1551 Mount Rose Avenue, York, PA 17403-2909) on February 28, 2002, was authorized to operate a burn off oven under GP4 in Spring Garden Township, **York County.**

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

GP5-17-11A: EnerVest Operating LLC (P. O. Drawer 1878, Clarksburg, WV 26302-1878) on February 8, 2002, was authorized to operate a 1,085 horsepower natural gas-fired reciprocating internal combustion compressor engine under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP-5) at the Lynn Robbins Station in Knox Township, **Clearfield County.**

GP5-17-16: EOG Resources, Inc. (Millcraft Plaza, Suite 300, 400 Southpointe Boulevard, Canonsburg, PA 15317) on February 8, 2002, was authorized to operate a 280 horsepower natural gas-fired reciprocating internal combustion compressor engine, a 350 horsepower natural gas-fired reciprocating internal combustion compressor engine and associated air cleaning devices (two catalytic converters) under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP-5) at the Woytek Station in Bell Township, **Clearfield County.**

GP5-17-17A: EnerVest Operating LLC (P. O. Drawer 1878, Clarksburg, WV 26302-1878) on February 8, 2002, was authorized to operate a 1,085 horsepower natural gas-fired reciprocating internal combustion compressor engine under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP-5) at the Chase Station in Boggs Township, **Clearfield County.**

GP5-17-07A: EOG Resources, Inc. (Millcraft Plaza, Suite 300, 400 Southpointe Boulevard, Canonsburg, PA 15317) on February 8, 2002, was authorized to construct and operate a 364 horsepower natural gas-fired reciprocating internal combustion compressor engine and a 462 horsepower natural gas-fired reciprocating internal combustion compressor engine under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP-5) at the South Station in Brady Township, **Clearfield County.**

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.

45-313-009F: Heico Chemicals, Inc. (P. O. Box 160, Delaware Water Gap, PA 18327) on February 21, 2002, for modification of chemical processing operations and associated air cleaning devices in Delaware Water Gap Borough, **Monroe County.**

40-313-009A: HPG International, Inc. (Crestwood Industrial Park, Oakhill Road, Mountain Top, PA 18707) on February 28, 2002, for the modification of Calendar Lines 9 and 10 and associated air cleaning devices in Wright Township, **Luzerne County.**

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

08-318-027C: Mill's Pride—Pennsylvania (100 Lamoka Road, Sayre, PA 18840) on February 5, 2002, for modification of two 28.7 million Btu per hour natural gas/woodwaste-fired boilers (increase of 23 and 69 tons per 12 consecutive month period, respectively, in the allowable nitrogen oxides and carbon monoxide emission rates) as well as for the installation of an air cleaning device (an electrostatic precipitator) on the respective boilers in Athens Township, **Bradford County.** The boilers are subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources.

08-317-006A: Leprino Foods Co. (217 Yanuzzi Drive, South Waverly, PA 18840) on February 5, 2002, for construction of whey drying and packaging systems and associated air cleaning devices (two cyclone collectors, a venturi spray tower scrubber and a fabric collector) in South Waverly Borough, **Bradford County.**

41-0010A: Andritz, Inc. (35 Sherman Street, Muncy, PA 17756-1202) on February 5, 2002, for construction of a .5 ton per hour thermal sand reclaimer and associated air cleaning device (a fabric collector) as well as for the construction of a 650 pound per hour steel-melting electric induction furnace in Muncy Borough, **Lycoming County.**

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

09-0087A: Air Products and Chemicals, Inc. (351 Philadelphia Avenue, Morrisville, PA 19067) on February 14, 2002, for operation of an ammonia scrubber in Falls Township, **Bucks County.**

46-0134: Hill School, The (717 East High Street, Pottstown, PA 19464) on February 14, 2002, for operation of two boilers in Pottstown Borough, **Montgomery County.**

15-0004D: Reynolds Metals Co. (520 Lincoln Avenue, Downingtown, PA 19335) on February 14, 2002, for operation of four film seaming machines in Downingtown Borough, **Chester County**.

23-0001N: Sunoco, Inc. (R&M) (Delaware Avenue and Green Street, Marcus Hook, PA 19061) on February 14, 2002, for operation of Boiler #9 in Marcus Hook Borough, **Delaware County**.

46-0036: Visteon Systems LLC (2750 Morris Road, Lansdale, PA 19446) on February 14, 2002, for operation of Selective Soldering Machine No. 6 in Worcester Township, **Montgomery County**.

46-0036A: Visteon Systems LLC (2750 Morris Road, Lansdale, PA 19446) on February 28, 2002, for operation of a urea selective catalytic reduction in Worcester Township, **Montgomery County**.

46-0036B: Visteon Systems LLC (2750 Morris Road, Lansdale, PA 19446) on February 14, 2002, for operation of a selective soldering machine in Worcester Township, **Montgomery County**.

09-0074: PCR Enterprises, Inc. (401 Fairview Avenue, Quakertown, PA 18951) on February 26, 2002, for operation of a spray booth in Quakertown Borough, **Bucks County**.

23-0001K: Sunoco, Inc. (Delaware Avenue and Green Streets, Marcus Hook, PA 19061) on February 26, 2002, for operation of an organic chemical production in Marcus Hook Borough, **Delaware County**.

09-0040A: Consolidated Graphics (315A West Street Road, Warminster, PA 18974) on March 1, 2002, for operation of a lithographic printing press in Warminster Township, **Bucks County**.

46-0108: Highway Materials, Inc. (1128 Crusher Road, Perkiomenville, PA 18074) on March 1, 2002, for operation of asphalt batch plant in Marlborough Township, **Montgomery County**.

46-0025G: Lonza, Inc. (900 River Road, Conshohocken, PA 19428) on March 1, 2002, for operation of two prescrubbers in Upper Merion Township, **Montgomery County**.

46-0025B: Lonza, Inc. (900 River Road, Conshohocken, PA 19428) on March 1, 2002, for operation of a hydrogenation reactor train in Upper Merion Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

07-05004A: Eldorado Properties Corp. (P. O. Box 2621, Harrisburg, PA 17105) on January 2, 2002, for installation of a storage tank for gasoline/distillate (Tank 30) at its Burns Avenue facility in Allegheny Township, **Blair County**. This plan approval was extended.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

47-305-002: Iris Energy, LLC (100 Nyala Farm, Westport, CT 06880), owner and DQE Synfuels, L.P. (1 North Shore Center, Suite 500, Pittsburgh, PA 15212), operator, on February 25, 2002, to extend authorization to operate a synthetic fuel manufacturing facility on a temporary basis until June 25, 2002, in Derry Township, **Montour County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

65-858A: American Video Glass Co. (777 Technology Drive, Mt. Pleasant, PA 15666) on January 31, 2002, for installation of Funnel Lehr Line 2 at New Stanton facility in Mt. Pleasant Township, **Westmoreland County**. This plan approval was extended.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Safko, Facilities Permitting Chief, (570) 826-2531.

35-00015: Metso Paper USA, Inc. (P. O. Box 155, Ivory Industrial Park, Clarks Summit, PA 18411) on February 20, 2002, for a Synthetic Minor Operating Permit for their fabricated rubber products operations in South Abington Township, **Lackawanna County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

01-05031: Metropolitan Edison Co. (P. O. Box 16001, 2800 Pottsville Pike, Reading, PA 19640-0001) on February 26, 2002, for operation of electrical generating units at its Germantown Substation in Mount Joy Township, **Adams County**.

06-05188: Metropolitan Edison Co. (P. O. Box 16001, 2800 Pottsville Pike, Reading, PA 19640-0001) on February 26, 2002, for operation of an electric generating station controlled by combustion controls in Muhlenberg Township, **Berks County**.

21-05045: Metropolitan Edison Co. (P. O. Box 16001, 2800 Pottsville Pike, Reading, PA 19640-0001) on February 26, 2002, for operation of electrical generating units at its Allen Substation in Monroe Township, **Cumberland County**.

67-05085: Metropolitan Edison Co. (P. O. Box 16001, 2800 Pottsville Pike, Reading, PA 19640-0001) on February 26, 2002, for operation of electrical generating units at its Cly Substation in Newberry Township, **York County**.

67-05086: Metropolitan Edison Co. (P. O. Box 16001, 2800 Pottsville Pike, Reading, PA 19640-0001) on February 26, 2002, for operation of electrical generating units at its Hill Substation in Shrewsbury Township, **York County**.

67-05087: Metropolitan Edison Co. (P. O. Box 16001, 2800 Pottsville Pike, Reading, PA 19640-0001) on February 26, 2002, for operation of electrical generating units at its Pleasureville Substation in Springettsbury Township, **York County**.

67-05088: Metropolitan Edison Co. (P. O. Box 16001, 2800 Pottsville Pike, Reading, PA 19640-0001) on February 26, 2002, for operation of electrical generating units at its Roundtop Substation in Warrington Township, **York County**.

67-05089: Metropolitan Edison Co. (P. O. Box 16001, 2800 Pottsville Pike, Reading, PA 19640-0001) on February 26, 2002, for operation of electrical generating units at its Westgate Substation in the City of York, **York County**.

67-05090: Metropolitan Edison Co. (P. O. Box 16001, 2800 Pottsville Pike, Reading, PA 19640-0001) on February 26, 2002, for operation of electrical generating units at its Yoe Substation in Windsor Township, **York County**.

67-05091: Metropolitan Edison Co. (P. O. Box 16001, 2800 Pottsville Pike, Reading, PA 19640-0001) on February 26, 2002, for operation of electrical generating units at its Yorkana Substation in Lower Windsor Township, **York County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

60-318-010: Nickelson Plastics, Inc. (100 Industrial Way, Osceola, WI 54020-0459) on February 5, 2002, for operation of a PVC coating operation in Buffalo Township, **Union County**.

60-310-007: Iddings Quarry, Inc. (900 Chestnut Street, Mifflinburg, PA 17844-1235) on February 26, 2002, for operation of a stone crushing and screening operation and associated air cleaning device (a water spray dust suppression system) in Limestone Township, **Union County**.

17-302-023: DuBois Regional Medical Center (P. O. Box 447, DuBois, PA 15801-0447) on February 26, 2002, for operation of three 20.92 million Btu per hour natural gas/#2 fuel oil-fired boilers in the City of DuBois, **Clearfield County**. These boilers are subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Edward Braun, Chief, (215) 685-9476.

95-076: Newman and Co., Inc. (6101 Tacony Street, Philadelphia, PA 19135) administratively amended on February 28, 2002, to change the permit contact information for their facility in the City of Philadelphia, **Philadelphia County**. The Title V Operating Permit was originally issued on July 9, 1999.

95-078: Kraft-Nabisco Division—Philadelphia Bakery (12000 East Roosevelt Boulevard, Philadelphia, PA 19116) administratively amended on February 28, 2002, to change the ownership of the facility from Nabisco Biscuit Company for their bakery in the City of Philadelphia, **Philadelphia County**. The Title V Operating Permit was originally issued on March 3, 2000.

96-039: Baum Printing Co. (9985 Gantry Road, Philadelphia, PA 19115) administratively amended on February 28, 2002, to change the ownership of the facility to Wallace Integrated Graphics, Inc. and to remove a press from the facility inventory list that has been removed from the facility in the City of Philadelphia, **Philadelphia County**. The Synthetic Minor Operating Permit was originally issued on December 14, 1999.

96-016: Boc Edwards Stokes Vacuum (5500 Tabor Road, Philadelphia, PA 19120) administratively amended on February 28, 2002, to change the ownership of the facility from Stokes Vacuum to Boc Edwards, correct the renewal application fee, correct two fuel oil tank sizes and to remove Spray Booth ID# P1 from the facility inventory list and replace it with a new spray booth as well as

incorporate conditions from Installation Permit #01077 for this new booth in the City of Philadelphia, **Philadelphia County**. The Natural Minor operating permit was originally issued on June 20, 2000.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes; the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

54851317R3. Rhen Coal Company (75 Rock Road, Pine Grove, PA 17963), renewal of an underground mine operation in Reilly Township, **Schuylkill County** affecting 2.5 acres, receiving stream: none. Application received December 7, 2001. Renewal issued February 26, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

63910103 and NPDES Permit No. PA020313. Robinson Coal Company (200 Neville Road, Neville Island, PA 15225). Permit renewal issued for reclamation only of a bituminous surface mine located in Robinson Township, **Washington County**, affecting 113.5 acres. Receiving streams: unnamed tributaries to Robinson Run and Little Raccoon Creek. Application received December 28, 2001. Reclamation only renewal issued February 27, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56990105 and NPDES Permit No. PA0235202, Marquise Mining Corporation. 3889 Menoher Blvd., Johnstown, PA 15905, commencement, operation and restoration of a bituminous surface and auger mine and for discharge of treated mine drainage in Quemahoning Township, **Somerset County**, affecting 168.5 acres. Receiving streams: unnamed tributaries to the Stonycreek River and Stonycreek River classified for the following uses: Cold Water Fishery and Cold Water Fishery. The first downstream potable water supply intake from the point of discharge is Cambria Somerset/Cambria County Municipal Authority—Border Dam. Application received October 19, 1999. Application issued February 27, 2002.

Noncoal Permits Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

52980301T and NPDES Permit #PA0223905. E. R. Linde Construction Corp. (R. R. 6 Box 6825, Honesdale, PA 18431), transfer of an existing quarry operation in Lackawaxen Township, **Pike County** affecting 11.87 acres, receiving stream: unnamed tributary to Little Blooming Grove Creek. Application received October 18, 2001. Transfer issued March 1, 2002.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

08010814. LaVern M. Johnson, R. R. 4, Box 4023, Wyalusing, PA 18853. Commencement, operation and restoration of a Small Industrial Minerals (Flagstone) permit in Wyalusing Township, **Bradford County** affecting 1 acre. Receiving streams: unnamed tributary, tributary to Susquehanna River. Application received June 25, 2001. Permit issued February 22, 2002.

53010806. Robert C. Paul, P. O. Box 64, Galetton, PA 16922. Commencement, operation and restoration of a Small Industrial Minerals (Bluestone) permit in West Branch Township, **Potter County** affecting 1 acre. Receiving streams: unnamed tributary to South Branch of Pine Creek. Application received October 16, 2001. Permit issued February 26, 2002.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)).

Except as otherwise noted, the Department of Environmental Protection certifies that the construction and operation herein described will comply with the applicable provisions of sections 301-303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State Water Quality Standards.

Persons aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge this action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (Note: Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

Permits Issued and Actions on 401 Certifications:

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E15-673. Pennsylvania Department of Transportation, District 6-0, 7000 Geerdes Boulevard, King of Prussia, PA 19460, West Vincent Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain the Chester Springs Road Crossing (S.R. 1024) over the Pine Creek tributary (HQ-TSF) to Pickering Creek, which will replace the previous stone arch structure that has been removed. A 24-foot by 7-foot precast, open-bottom arch culvert is proposed for the site. The structure will span 24 feet and will be 28 feet wide with a maximum under clearance of 5 feet 9 inches. The proposed structure is to be constructed on the footprint of the previous bridge. Associated with the proposed structure is riprap scour protection to be placed at either end of the structure to protect the footings. It will approximately extend for a length of 5 feet along the channel and 38 feet across the streambed and embankment slopes on either side. The project site is located adjacent to the intersection of Old Kimberton Road and North Chester Springs Road (Downingtown, PA Quadrangle N: 18.5 inches; W: 4.7 inches).

E15-677. Robert James Enterprises Corporation, 21 West Biddle Street, West Chester, PA 19380, Upper Uwchlan Township, **Chester County**, ACOE Philadelphia District.

To replace, construct and maintain a private bridge crossing with associated wingwalls spanning the Black Horse Creek (HQ-TSF). The existing structure to be replaced consists of two elliptical CMPs and associated fill. The proposed bridge will be 12 feet long with a 30-foot span and 6-foot underclearance. The structure will serve as an access to two subdivided lots. The project site is located 300 feet west of the intersection of Krauser Road and Blackhorse Circle (Downingtown, PA Quadrangle N: 15.9 inches; W: 13.1 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E35-345. William R. Powell, R. R. 1, Box 27, Carbondale, PA 18407, Fell Township, **Lackawanna County**, Army Corps of Engineers Baltimore District.

To place fill in a de minimis area of wetlands equal to 0.03 acre and to construct and maintain a steel-beam bridge with gabion wingwalls and concrete abutments and decking, having a span of 32.33 feet and an underclearance of approximately 8 feet across Fall Brook for the purpose of providing access to a single family residence. The project is located adjacent to S.R. 0106 approximately 1.5 miles southeast of its intersection with S.R. 0247 (Carbondale, PA Quadrangle N: 18.2 inches; W: 4.6 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E31-174. Smithfield Township, Mt. Vernon and 13th Street, Huntingdon, PA 16652 in Smithfield Township, **Huntingdon County**.

To construct a pedestrian bridge across Crooked Creek (WWF) and to construct a park within the floodway of the Juniata River (WWF) at the junction of Crooked Creek and Juniata River (Huntingdon, PA Quadrangle N: 19.7 inches; W: 2.3 inches) in Smithfield Township, Huntingdon County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

E14-408. Houtzdale Municipal Authority, 721-1 Kirk Street, Houtzdale, PA 16651. Intake Replacement, in Rush Township, **Centre County**, ACOE Baltimore District (Houtzdale, PA Quadrangle N: 7.0 inches; W: 11.0 inches).

To: 1) remove two existing water intakes from Mountain Branch; and 2) construct and maintain two 12-inch diameter PVC pipe intakes in Mountain Branch located 6,800 ft southeast of Trim Root Run's confluence with Mountain Branch and two 12-inch PVC pipe intakes located 3,000 ft northwest of Trim Root Run's confluence with Mountain Branch (Houtzdale, PA Quadrangle N: 7.0 inches; W: 11.0 inches) in Rush Township, Centre County. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E10-201, Dimension Development Corporation, 120 Three Degree Road, Pittsburgh, PA 15237. Hunters Creek Plan of Lots, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 16.0 inches; W: 1.5 inches).

To construct and maintain a 80-foot long, 16.5-foot wide by 11-foot high corrugated metal pipe arch culvert in a tributary to Brush Creek and impacting 0.09 acre of wetland (PFO) for the extension of Hunter Drive for access to Phase IV of Hunter's Creek Plan of Lots residential development east of Powell Road approximately 1 mile north of Rochester Road. Project includes contribution to the Pennsylvania Wetland Replacement Fund for replacement of 0.09 acre of wetland impact.

E10-345, Pennsylvania Department of Transportation, District 10-0, P. O. Box 429, Route 286 South, Indiana, PA 15701. S.R. 3021, Segment 0100, Offset 0000 Across Wolfe Run, in Cranberry Township, Butler County, ACOE Pittsburgh District (Mars, PA Quadrangle N: 18.6 inches; W: 10.0 inches).

To remove the existing bridge and to construct and maintain a 40-foot long precast concrete CON/SPAN arch having a span of 32 feet and a clear rise of 8 feet across Wolfe Run on S.R. 3021, Segment 0100, Offset 0000 approximately 3 miles north of S.R. 228.

E10-347, Jenny McKeag, 111 Venango Trail, Slippery Rock, PA 16057. McKeag SRSTP Outfall to Slippery Rock Creek, in Slippery Rock Township, **Butler County**, ACOE Pittsburgh District (Slippery Rock, PA Quadrangle N: 7.0 inches; W: 1.6 inches).

To install and maintain a 4-inch diameter outfall pipe along the east side of Slippery Rock Creek approximately 2,000 feet upstream of Wadsworth Bridge Road from a Small Flow Sewage Treatment Facility replacing a malfunctioning septic system at 111 Venango Trail.

E27-066, Forest County, Forest County Courthouse, Tionesta, PA 16353. Bear Run Road Across Maple Creek, in Barnett Township, **Forest County**, ACOE Pittsburgh District (Marienville, PA Quadrangle N: 2.9 inches; W: 8.5 inches).

To remove the existing bridge and to construct and maintain a prestressed concrete adjacent box beam bridge having a clear span of 58.5 feet and an underclearance of 11 feet on a 53 degree skew on a new alignment approximately 30 feet upstream across Maple Creek (HQ-CWF) on Bear Run Road (S.R. 2008) approximately 2 miles west of S.R. 899.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

EA63-003CO. F. Daniel Caste, Bower Hill Development Group, P. O. Box 10360, Pittsburgh, PA 15234. Peters Township, **Washington County**, ACOE Pittsburgh District.

To construct a nonjurisdictional dam in the watershed of a tributary to Peters Creek (TSF) for stormwater management at the proposed Woodlands of Peters Township, Bower Hill Development, Inc., impacting approximately 0.07 acre of wetland (PEM). The applicant has proposed making a contribution to the Pennsylvania Wetland Replacement Fund in lieu of constructing replacement wetlands. The dam will be located approximately 1,500 feet northeast of the intersection of Bower Hill Road (SR62051) and McCombs Road (Bridgeville, PA Quadrangle, N: 2.55 inches, W: 9.15 inches).

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permit has been issued.

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once.

Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>ESCP No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
ESCP6101801	Industrial Timber and Land Company P. O. Box 67 Endeavor, PA 16322	Venango County	Allegheny Township President Township	Stewart Run (CWF)

SPECIAL NOTICES

Application Period for Municipal Recycling Program Performance Grant Applications under Section 904 of the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101)

Calendar Year 2001 Recycling

The Department of Environmental Protection (Department) announces a request for applications from municipalities for recycling performance grant assistance for recycling programs under Act 101. Municipalities include counties, cities, boroughs, incorporated towns, townships and home rule municipalities. This application period is for eligible materials recycled and marketed in calendar year 2001.

Municipal Recycling Program Performance Grant (grant) funds will be awarded to municipalities based upon the weight of source separated recyclable materials identified in section 1501(c)(1)(i) of Act 101 recovered by municipal recycling programs and the population of the municipality as determined by the most recent decennial census. Municipalities will be eligible to receive an award based on a formula of \$5 for each Department approved ton of eligible recyclable materials recycled or marketed and \$1 per approved ton for each percentage of municipal waste calculated by the Department to be diverted from disposal. The weight of eligible materials allowable from nonresidential (commercial, institutional and municipal) sources under the preceding formula will be limited to no more than the weight of approved eligible materials from residential sources. Any Department approved materials from nonresidential sources not factored into the preceding formula will be awarded a bonus of \$10 per ton. The Department will not award grants calculated to be less than \$10.

Applicants that have failed to comply with the conditions set forth in previously awarded grants, the grant requirements or regulations of Act 101 may not be awarded funds under this grant program. Applicants must ensure that they are in compliance with section 272.314(b)(2) of Act 101 relating to the submittal of the annual recycling report.

Eligible materials include post-consumer clear glass, colored glass, aluminum cans, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper, other marketable grades of paper and plastics. Grants will be awarded only for properly documented, eligible materials that were actually marketed on or after January 1, 2001, to and including, December 31, 2001. Grant funds will not be awarded for residues, materials not listed as eligible including, but not limited to, leaf and yard wastes or any materials which cannot be documented as being recycled into a new product or use.

Documentation to support all claims that eligible recyclable materials were generated within the municipality and marketed must be made available for auditing by the Department, the Office of the Auditor General, the Office of the Treasurer or agents of those offices for 4 years. The Department will not require applicants to retain hauler customer lists; however, the lists may be required to be examined in the event of an audit. It will be the applicant's responsibility to arrange for hauler customer lists to be provided or for haulers to be present with their customer lists, during a grant audit. Supporting documentation is not required to be submitted with the application.

Acceptable Supporting Documentation: Weight slips or receipts verifying that the materials were recycled or marketed are required as supporting documentation for the grant application. The documentation must include: 1) the date the materials were recycled/marketed; 2) the type of material recycled/marketed; 3) the name of the municipality where the material was generated; and 4) weight, stated in pounds or tons, of the material recycled/marketed. Documentation supporting materials source separated from municipal waste by commercial/institutional establishments and recycled/marketed must bear the name of the establishment and the municipality where the establishment is located.

Acceptable documentation must be provided in one of the following formats: 1) a dated weight/market receipt identifying the generator of the recyclable materials and the market; 2) a dated report submitted by the hauler or market on company letterhead clearly indicating the name of the company generating the recyclable materials; or 3) a dated report submitted by the generator, which is signed by the hauler or market vendor that received the materials. Reports may be submitted on annual, monthly, weekly or other time period format. All information must be legible.

Estimates of weight will not be accepted except in cases where: 1) the material is packaged in uniform bales and the average weight of a bale can be demonstrated and supported by weight receipts and a record of the number of bales was provided by the market vendors; or when 2) multiple generators contribute to a known quantity of marketed material and the hauler or market estimates the quantities attributable to any individual establishment or municipality and verifies the estimate with a signature.

Although the supporting documentation is not required to be submitted with the grant application, any documentation provided must conform to the previous requirements or the materials claimed will not be credited toward the grant award.

Grant applications must be on forms provided by the Department for calendar year 2001. Grant applications must be delivered by 3 p.m., September 27, 2002, or postmarked by that date. Applications received by the Department after the deadline will be returned to the applicant. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 and the availability of moneys in the Recycling Fund.

Municipalities wishing to file an application should contact their County Recycling Coordinator or the Department at the address that follows. Applicants who filed a Performance Grant application for calendar year 2000 will be mailed a current application by the Department as soon as they are available. Applications may also be obtained from the Department's website at www.dep.state.pa.us (direct link "Recycle"). Inquiries concerning this notice should be directed to Todd Pejack, Bureau of Land Recycling and Waste Management, Department of Environmental Protection, Rachel Carson State Office

Building, P. O. Box 8472, Harrisburg, PA 17105-8472 or e-mail to tpejack@state.pa.us.

Certification to Perform Radon-Related Activities in this Commonwealth

In the month of February 2002, the Department of Environmental Protection, under the authority contained in the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the following persons to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Air Quality Control, Inc.	241 King Manor Drive Suite D King of Prussia, PA 19406	Mitigation
Michael Biechler	2843 North Front Street Harrisburg, PA 17110	Testing
Gregory Hancock	193 Park Avenue Woolrich, PA 17779	Testing
Robert Harris	2843 North Front Street Harrisburg, PA 17110	Testing
Matthew Hodges Hodges Environmental Technology	407 South West End Avenue Lancaster, PA 17603	Testing
Scott Jacobs	618 North Maple Avenue Ridgeway, PA 15853	Mitigation
Donald John	P. O. Box 211 Worthington, PA 16262	Testing
Leonard Kelsey	800 Sunset Lane Stroudsburg, PA 18360	Testing
Daniel Keogh	590 Sandra Lane Phoenixville, PA 19460	Testing
Raymond King	1812 Willow Street Pike Lancaster, PA 17602	Testing
John Marryott	45 Wilfred Avenue Titusville, NJ 08560	Mitigation
Thomas O'Connor	8620 Rochester Road Pittsburgh, PA 15237	Testing
Harold Quesenberry Enviro Test, Inc.	355 Barts Church Road Hanover, PA 17331	Testing and Mitigation
Realty Inspection Services, Inc.	483 North Main Street Moscow, PA 18444	Testing
Kathleen Remsnyder	2843 North Front Street Harrisburg, PA 17110	Testing
Jeffrey Schlaline Absolute Radon Mitigation, LLC	800 Locust Grove Road York, PA 17402	Mitigation
Igor Smetaniuk	P. O. Box 300 454 High Road Glen Spey, NY 12737	Testing

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
David Steinman	1899 Lititz Pike Lancaster, PA 17601	Testing
Roy Stirling National Property Inspections, Inc.	P. O. Box 145 Geigertown, PA 19508	Testing
Wayne Thomas Environmental Abatement Assoc., Inc.	143 West Main Street Plymouth, PA 18651	Testing

[Pa.B. Doc. No. 02-426. Filed for public inspection March 15, 2002, 9:00 a.m.]

Air Quality Technical Advisory Committee; Meeting Cancellation

The Air Quality Technical Advisory Committee meeting scheduled for March 14, 2002, has been cancelled because of an insufficient number of agenda items.

For further information, contact Terry Black at (717) 787-2030.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-427. Filed for public inspection March 15, 2002, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (DEP) website (www.dep.state.pa.us) at the Public Participation Center page. The "December 2001 Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

Ordering Paper Copies of DEP Technical Guidance

DEP encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Draft Technical Guidance

DEP ID: 383-2300-001. Title: Pennsylvania's Interim Program for Operator Certification. Description: The Department and the State Board for Certification of Water and Wastewater Systems Operators will follow this guidance to direct and support the Water and Wastewater Systems Operator's Certification Act and meet section 1419 of the 1996 amendments to the Federal Safe Drinking Water Act. The document also will ensure the Commonwealth's continued eligibility to receive Federal funding to support the operator certification program, and

serve interim functions until promulgation of final-form rulemaking by the Environmental Quality Board. Anticipated Effective Date: July 1, 2002. Comment Period Ends: April 30, 2002. Contact: Foster Diadato at (717) 787-0122 or e-mail at fdiodata@state.pa.us.

DEP ID: 383-2300-002. Title: Training Provider Manual for the Pennsylvania Water and Wastewater System Operator Training Program. Description: The Department and the State Board for Certification of Water and Wastewater Systems Operators will follow this guidance to direct and support the Water and Wastewater Systems Operator Training Program. The document will establish uniform procedures and protocol for reviewing and approving water and wastewater training courses for pre-certification and continuing education of operators, and to ensure application of appropriate credit to operators for training taken. Anticipated Effective Date: July 1, 2002. Comment Period Ends: April 30, 2002. Contact: Barry Grenawalt at (717) 787-0122 or e-mail at rgreenawal@state.pa.us.

Final Technical Guidance

DEP ID: 012-0700-001. Title: Implementation of the Pennsylvania State History Code: Policy and Procedures for Applicants for DEP Permits and Plan Approvals. Description: This policy has been revised to be consistent with the Pennsylvania State History Code for DEP Plan approvals and permit reviews so that the Pennsylvania Historical and Museum Commission has the opportunity to review activities undertaken with DEP's approval for their possible impact on significant historical and archaeological resources. Effective Date: March 16, 2002. Contact: Patricia Grim at (717) 783-6390 or e-mail at pgrimstate.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-428. Filed for public inspection March 15, 2002, 9:00 a.m.]

Oil and Gas Technical Advisory Board; Meeting Cancellation

The meeting of the Oil and Gas Technical Advisory Board scheduled for March 21, 2002, in Harrisburg, has been cancelled. The next meeting is scheduled for Thursday, October 24, 2002, in Harrisburg.

For further information, contact Jim Erb, Bureau of Oil and Gas Management, (717) 772-2199 or e-mail to jerb@state.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-429. Filed for public inspection March 15, 2002, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

State Surplus Property

The Department of General Services, State Surplus Property is selling a mobile home located in the village of Coral-Graceton. Open house is March 23, 2002, from 9 a.m. to 12 noon. Bid opening is April 10, 2002. For more information call (717) 787-4085.

KELLY POWELL LOGAN,
Secretary

[Pa.B. Doc. No. 02-430. Filed for public inspection March 15, 2002, 9:00 a.m.]

State Surplus Property

Under the provisions of section 510 of The Administrative Code of 1929 (71 P. S. § 190), the Department of General Services, State Surplus Property Program is offering for sale to counties, boroughs, incorporated towns, cities and townships the following items:

<i>Item</i>	<i>Make</i>	<i>Eq. No.</i>	<i>Location</i>
Front End Loader	John Deere	242-8040	PennDOT—Waterford, PA
Articulated Loader	John Deere	043-2040	PennDOT—Tionesta, PA
Rubber Tire Loader	John Deere	295-2040	PennDOT—Harrisburg, PA
Rubber Tire Loader	John Deere	224-2040	PennDOT—Franklin, PA
Articulated Loader	Michigan	058-8059	PennDOT—Bellefonte, PA
Backhoe Loader Comb. Tractor	Case	173-6056	PennDOT—Bellefonte, PA
All Wheel Drive Grader	Clark	319-3671	PennDOT—Bellefonte, PA
Mixer Paver	Midland	002-1957	PennDOT—Bellefonte, PA
Front End Bucket Loader	Michigan	059-8059	PennDOT—Lewistown, PA
Diesel Powered Patcher	Rosco	015-5610	PennDOT—Mifflintown, PA
Backhoe	Case	206-6056	PennDOT—Towanda, PA
Excavator	Koehring	001-6368	PennDOT—Towanda, PA
Belt Loader	Athey	098-5369	PennDOT—Towanda, PA
Articulated Grader	Champion	010-1682	PennDOT—White Mills, PA
Bituminous Towed Patcher	Rosco	038-5610	PennDOT—Temple, PA
Front End Rubber Tire Loader	John Deere	122-2040	PennDOT—Temple, PA
Front End Loader	John Deere	117-2040	PennDOT—Allentown, PA
Articulated Loader	John Deere	127-2040	PennDOT—Schuylkill Haven, PA
Side Dozer Maint. w/Broom	Huber	121-5683	PennDOT—Gettysburg, PA
Backhoe Loader Combined	Case	281-6056	PennDOT—Gettysburg, PA
Backhoe Loader Combined	John Deere	102-6040	PennDOT—York, PA
Front End Bucket Loader	Case	301-2056	PennDOT—York, PA
Grader Mounted Widener	Rivinus	004-7055	PennDOT—York, PA
Stone Self Propelled Chipper	Etnyre	033-5808	PennDOT—York, PA
3-5 Ton Roller	Galion	901-9435	PennDOT—York, PA
Earth Moving Loader	Case	318-2056	PennDOT—York, PA
Diesel Backhoe	Case	345-6056	PennDOT—Harrisburg, PA
Backhoe Loader	Case	286-6056	PennDOT—Harrisburg, PA
Rubber Tire Roller	Galion	692-2435	PennDOT—Lancaster, PA
Loader	John Deere	182-2040	PennDOT—Lancaster, PA
Wheel Loader	John Deere	060-2040	PennDOT—Lancaster, PA
Wheel Loader	John Deere	068-1385	PennDOT—Lancaster, PA
Rubber Tire Loader	John Deere	129-2040	PennDOT—Ebensburg, PA
610B Turbo Backhoe	John Deere	101-6040	PennDOT—Ebensburg, PA
Crawler Loader	John Deere	127-8385	PennDOT—Somerset, PA
Backhoe	John Deere	143-6040	PennDOT—Shippensburg, PA
Three Wheel Loader	Galion	712-3435	PennDOT—Punxsutawney, PA
Right Lane Closed Ahead Signs	Eastern Metal	137265	PennDOT—Harrisburg, PA
Right Lane Closed Ahead Signs	Eastern Metal	137264	PennDOT—Harrisburg, PA
One Lane Road Ahead Signs	Eastern Metal	137263	PennDOT—Harrisburg, PA
One Lane Road Ahead Signs	Eastern Metal	137262	PennDOT—Harrisburg, PA
Road Closed Ahead Signs	Eastern Metal	137261	PennDOT—Harrisburg, PA
Detour Ahead Signs	Eastern Metal	137260	PennDOT—Harrisburg, PA
Stop Ahead Signs	Eastern Metal	137259	PennDOT—Harrisburg, PA
End Work Area	Eastern Metal	137258	PennDOT—Harrisburg, PA
Flagger Symbol Signs	Eastern Metal	137266	PennDOT—Harrisburg, PA
Flagger Symbol Signs	Eastern Metal	137267	PennDOT—Harrisburg, PA

<i>Item</i>	<i>Make</i>	<i>Eq. No.</i>	<i>Location</i>
Be Prepared to Stop Signs	Eastern Metal	137268	PennDOT—Harrisburg, PA
Be Prepared to Stop Signs	Eastern Metal	137269	PennDOT—Harrisburg, PA
Work Area Ahead Signs	Eastern Metal	137270	PennDOT—Harrisburg, PA
Work Area Ahead Signs	Eastern Metal	137271	PennDOT—Harrisburg, PA
Counter Install Ahead Signs	Eastern Metal	137272	PennDOT—Harrisburg, PA
Counter Install Ahead Signs	Eastern Metal	137273	PennDOT—Harrisburg, PA
Backhoe	John Deere	010-6040	Corrections—Frackville, PA
Backhoe	Case	114-07-0243	DPW—Clarks Summit, PA
Loader	Case	114-05-0097	DPW—Clarks Summit, PA

The items will be sold to the highest responsible bidder by sealed bid sale. Political subdivisions interested in procuring one or more of these items should contact Department of General Services, State Surplus Property Division, 2221 Forster Street, Room G-12, Harrisburg, PA 17125, (717) 787-4085. Requests need to be made prior to the bid opening on April 15, 2002, at 1 p.m. to receive a bid packet.

KELLY POWELL LOGAN,
Secretary

[Pa.B. Doc. No. 02-431. Filed for public inspection March 15, 2002, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Holy Redeemer Health System for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Holy Redeemer Health System has requested an exception to the requirements of 28 Pa. Code § 138.15 (relating to high-risk cardiac catheterizations).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: DDITLOW@STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-432. Filed for public inspection March 15, 2002, 9:00 a.m.]

Application of Jeanes Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Jeanes Hospital has requested an exception to the requirements of 28 Pa. Code § 138.15 (relating to high-risk cardiac catheterizations).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: DDITLOW@STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-433. Filed for public inspection March 15, 2002, 9:00 a.m.]

Application of UPMC Shadyside for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that UPMC Shadyside has requested an exception to the requirements of 28 Pa. Code § 51.3(g)(4) (relating to notification).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: DDITLOW@STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be

reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so, should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-434. Filed for public inspection March 15, 2002, 9:00 a.m.]

Request for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Sharon Regional Health System Skilled Care Center
740 East State Street
Sharon, PA 16146

This request is on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax: (717) 772-2163, e-mail address: PAEXCEPT@HEALTH.STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-435. Filed for public inspection March 15, 2002, 9:00 a.m.]

WIC Public Meetings

The Department of Health (Department), Supplemental Food Program for Women, Infants and Children (WIC Program), will hold public meetings on the following dates at the locations indicated:

April 17, 2002
10 a.m. to 3 p.m.
Health and Welfare Building, Room 610
Commonwealth and Forster Streets
Harrisburg, PA 17120

April 24, 2002
10 a.m. to 3 p.m.
NORTH, Inc.
624 North Broad Street, Suite 101
Philadelphia, PA 19130-1289

The Department invites comments on all aspects of the WIC Programs' operations. General comments on other issues pertinent to the WIC Program also are requested.

Persons wishing to give testimony at the public meeting are requested to preregister with the State WIC Program Office, (717) 783-1289. Anyone unable to attend the meetings may submit written comments by March 31, 2002, to the Department. Direct written comments to Department of Health, Division of WIC, Attention: Planning and Monitoring Section, P. O. Box 90, Harrisburg, PA 17108.

Persons with a disability who wish to attend a meeting and require an auxiliary aid service or other accommodation to do so, should contact Jeannette Fossie, (717) 783-1289; V/TT: (717) 783-6514 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-436. Filed for public inspection March 15, 2002, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractor has been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), this firm or persons, or any firms, corporations or partnerships in which the firm or persons have an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Zane Dow, Wallace Butler, Pete White, Wanda McCowin and Darryl Grant, individually and d/b/a Wal-Field Group (Fed. ER ID No. 23-2994563)	2 Kline Plaza, Suite F and/or Suite K Harrisburg, PA 17104 and/or P. O. Box 5567 Harrisburg, PA 17110-0567	2/20/02

JOHNNY J. BUTLER,
Secretary

[Pa.B. Doc. No. 02-437. Filed for public inspection March 15, 2002, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulation on the date indicated. To obtain the date and time of the meeting at which the Commission will consider this regulation, contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us. To obtain a copy of the regulation, contact the promulgating agency.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
#16-17	Pennsylvania State Athletic Commission Boxing and Wrestling	3/5/02

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 02-438. Filed for public inspection March 15, 2002, 9:00 a.m.]

INSURANCE DEPARTMENT

Aetna US Healthcare; Pittsburgh 3Q02 Rate Filing

On March 1, 2002, Aetna US Healthcare submitted a filing for an increase in the commercial HMO rates in its Pittsburgh service area. This filing represents an average annual increase over current rates, which varies by renewal quarter from 11% to 29% on medical policies. The reason for the increase is because recent medical costs are increasing at a higher level than anticipated in the current rate manual. The rate increase will affect approximately 52,000 medical subscribers and result in additional annual premium income of approximately \$20 million.

The requested effective date of the change is July 1, 2002.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional offices in Harrisburg and Pittsburgh.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-439. Filed for public inspection March 15, 2002, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68),

in connection with the termination of the insured's automobile policy. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg, Pittsburgh and Philadelphia, PA. Failure by the appellants to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Robert D. Ford; file no. 02-182-00838; Erie Insurance Exchange; doc. no. P02-02-035; April 10, 2002, at 10:30 a.m.

The following hearings will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Diana McDonald; file no. 02-303-70004; American Independent Insurance Company; doc. no. PI02-02-033; April 24, 2002, at 9 a.m.

Appeal of Robert A. and Lavonne E. Milisits; file no. 02-308-70289; Erie Insurance Exchange; doc. no. PI02-02-036; April 24, 2002, at 11 a.m.

Appeal of Katie A. McGurk; file no. 02-348-70089; Liberty Mutual Fire Insurance Company; doc. no. PI02-02-032; April 24, 2002, at 1 p.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Herbert and Francine Lottier; file no. 02-267-00228; Liberty Mutual Insurance Group; doc. no. PH02-02-027; April 26, 2002, at 9:30 a.m.

Appeal of Wayne A. Young; file no. 02-215-00756; CGU Insurance Company; doc. no. PH02-02-022; April 26, 2002, at 11:30 a.m.

Appeal of Ronald McCoy; file no. 02-280-00465; American Independent Insurance Company; doc. no. PH02-02-025; April 26, 2002, at 1 p.m.

Appeal of Gary and Bernadette Kisselback; file no. 02-278-00042; AAA Mid-Atlantic Insurance Company; doc. no. PH02-02-023; April 26, 2002, at 3 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses and the like necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order

resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator, at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-440. Filed for public inspection March 15, 2002, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no such documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Governor's Office

Management Directive No. 620.1—Coal Sampling and Reporting, Amended February 6, 2002.

GARY R. HOFFMAN,
Director
Pennsylvania Bulletin

[Pa.B. Doc. No. 02-441. Filed for public inspection March 15, 2002, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Default Order

Public Meeting held
February 21, 2002

Commissioners Present: Glen R. Thomas, Chairperson;
Kim Pizzigrilli; Aaron Wilson, Jr.; Terrance J.
Fitzpatrick.

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff (2001.0359) v. AGF Direct Gas Sales
& Servicing; Doc. No. C-20026669; A-125061*

Default Order

By the Commission:

On January 14, 2002, the Law Bureau Prosecutory Staff instituted a complaint against AGF Direct Gas Sales & Servicing (the Respondent), a natural gas supplier

licensed at A-125061. In the complaint, Prosecutory Staff alleged that the Commission sent by certified mail a notice to the Respondent that its 2001-2002 annual assessment was overdue. The complaint charged that the Respondent's failure to pay this assessment violates 66 Pa.C.S. § 510(c).

The complaint sought an order from the Commission canceling the Respondent's license for failure to pay its annual assessment. The complaint was mailed by the Secretary's Bureau on January 16, 2002, to its last known business address. To date, more than 20 days since the filing of the complaint, no answer has been filed to the complaint and the annual assessment has still not been paid. Additionally, the telephone number the Commission has for the company is no longer valid; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. Absent the filing of adverse public comment, 20 days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the license held by AGF Direct Gas Sales & Servicing at Docket No. A-125061 shall be canceled, and the company's name stricken from all active utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Audits.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-442. Filed for public inspection March 15, 2002, 9:00 a.m.]

Railroad With Hearing

A-00113579. Department of Transportation. Application of the Department of Transportation for approval of the abolition of the crossing where State Route 4003 crosses over the tracks of Consolidated Rail Corporation in the City of Philadelphia, Philadelphia County and the allocation of costs and expenses incident thereto.

An initial hearing on this matter will be held Tuesday, April 16, 2002, at 10 a.m. in an available hearing room, Philadelphia State Office Building, Broad and Spring Garden Streets, Philadelphia, PA, when and where all persons in interest may appear and be heard, if they so desire.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-443. Filed for public inspection March 15, 2002, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission (Commission). Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before April 8, 2002, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property, household goods in use and persons). The protests shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Application of the following for approval to *begin operating as common carriers for transportation of persons as described under the application.*

A-00118692. Todd W. Callahan t/d/b/a Interstate Airport Shuttle (405 North Wade Avenue, Washington, Washington County, PA 15301)—persons in airport transfer service, from points in the borough of Canonsburg and the city of Washington, Washington County, to the Pittsburgh International Airport, located in the township of Moon, Allegheny County.

Application of the following for approval to *begin operating as contract carriers for transportation of persons as described under the application.*

A-00118684. Fresh Air Accessible Services, LLC (P. O. Box 4670, Scottsdale AZ 85260)—contract carrier, persons, for Elder Health Pennsylvania HMO, Inc., between points in the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia. *Attorney:* Jeremy Kahn, 1730 Rhode Island Avenue, NW, Suite 810, Washington, DC 20036.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-444. Filed for public inspection March 15, 2002, 9:00 a.m.]

Telecommunications

A-311159F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Budget Phone, Inc. Joint Petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Budget Phone, Inc. for approval of a master interconnection and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Budget Phone, Inc. filed on March 4, 2002, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a master interconnection and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of The United Telephone Company of Pennsylvania d/b/a Sprint

and Budget Phone, Inc. Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-445. Filed for public inspection March 15, 2002, 9:00 a.m.]

Telecommunications

A-311149F7001. Verizon North Inc. and NPCR, Inc. d/b/a Nextel Partners. Joint Petition of Verizon North Inc. and NPCR, Inc. d/b/a Nextel Partners for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and NPCR, Inc. d/b/a Nextel Partners filed on February 22, 2002, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and NPCR, Inc. d/b/a Nextel Partners Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-446. Filed for public inspection March 15, 2002, 9:00 a.m.]

Tentative Order

Public Meeting held
February 21, 2002

Commissioners Present: Glen R. Thomas, Chairperson; Kim Pizzingrilli; Aaron Wilson, Jr.; Terrance J. Fitzpatrick

Columbia Energy Power Marketing Corp.; Doc. No. A-110067

Tentative Order

By the Commission:

Columbia Energy Power Marketing Corp. (Columbia) has not paid its 2001-2002 Annual Assessment pursuant to 66 Pa.C.S. § 510. In its efforts to collect payment, Law Bureau Prosecutory Staff was advised by the company's former outside lawyer that all of the company's assets were sold to two other companies in the summer of 2000 and that Columbia is no longer in business. Telephone calls to the last known business address of Columbia confirmed that the number is no longer in service and no information is available for any new phone number.

Columbia, an electric generation supplier, was granted an interim electric generation supplier license by the Commission on May 21, 1998, at A-110067, and a permanent license on January 1, 1999. Based upon the findings of the Prosecutory Staff, we believe that it is appropriate to revoke Columbia's license without the necessity of first filing a formal complaint. Finally, we are not aware that Columbia has any current customers in Pennsylvania. For these reasons, we tentatively conclude that revocation of Columbia's license pursuant to 66 Pa.C.S. § 2809 will not be detrimental to the public interest; *Therefore,*

It Is Ordered That:

1. Columbia Energy Power Marketing Corp.'s electric generation supplier license is hereby tentatively approved to be revoked as being in the public interest.
2. A copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving all persons having an interest in this proceeding 30 days from the date of publication to file a written response.
3. Absent the filing of adverse public comment 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further order of this Commission.
4. Upon this order becoming final and without further action by the Commission, the license held by Columbia Energy Power Marketing Corp. at A-110067 shall be cancelled, and the company's name stricken from all active utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.
5. A copy of this Order be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-447. Filed for public inspection March 15, 2002, 9:00 a.m.]

**Wastewater
Without Hearing**

A-230240F0015. Little Washington Wastewater Company d/b/a Suburban Wastewater Company. Application of Little Washington Wastewater Company d/b/a Suburban Wastewater Company, for approval of: 1) the transfer, by sale, of the wastewater system assets of K. Hovnanian at Thornbury, Inc. to Little Washington Wastewater Company; and 2) the right of Little Washington Wastewater Company to begin to offer, render, furnish or supply wastewater service to the public in a portion of Thornbury Township, Chester County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before April 1, 2002, under 52 Pa. Code (relating to public utilities).

Applicant: Little Washington Wastewater Company
d/b/a Suburban Wastewater Company

Through and By Counsel: Mark J. Kropilak, Esquire,
762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-448. Filed for public inspection March 15, 2002, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #0215.1, Installation of Temp. Whse. Bldg. at Pier 84 South until 2 p.m. on Thursday, March 28, 2002. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available March 19, 2002. The cost of the bid document is \$35 (includes 7% Pennsylvania Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal opportunity laws and regulations.

Mandatory prebid job site meeting will be held March 21, 2002, 10 a.m. at Columbus Blvd. and Porter St., Philadelphia, PA 19148.

JAMES T. MCDERMOTT,
Executive Director

[Pa.B. Doc. No. 02-449. Filed for public inspection March 15, 2002, 9:00 a.m.]

TURNPIKE COMMISSION

Retention of a Design Management Firm

I-95/I-276 (Pennsylvania Turnpike) Interchange Project

Reference No. 4-061

The Turnpike Commission (Commission) will retain a design management firm to provide project management services for the design development of an interchange between Interstate 95 and Interstate 276 (I-95/I-276) in Bucks County, PA. It is anticipated that the design manager will manage, direct and coordinate the efforts of approximately five design firms.

The design manager will act as an agent of the Commission. Project correspondence, except contractual issues, will be directed to the design manager for resolution and response.

Design management activities will begin with review of the scopes-of-work for the design consultants and end with the bidding of the final construction contract on the I-95/I-276 Interchange Project. A minimum of five major construction contracts is anticipated. This contract may be financed with Federal, State and Commission funds and will be subject to Federal review and oversight in accordance with Federal aid regulations (23 CFR Chapter 1). The project has an estimated construction cost of \$640

million as developed in the draft environmental impact statement, Section 4(f) evaluation and Section 404 permit application.

The selected firm will be required to provide engineering review services during the design phase of the project and to provide sufficient staff to adequately maintain project coordination and schedule from preliminary design through bidding of the construction contracts.

Tasks required include, but are not limited to: prepare master schedules to coordinate all phases of the project; monitor schedules to assure compliance with the master schedule; monitor design costs to keep cost within budget; review of design submissions, preliminary and final right-of-way plans, design drawings, special provisions, specifications and estimates prepared by other consulting engineering firms; conduct design review meetings and plan checks; provide constructibility reviews; review environmental items of work and coordinate required permit applications; standardize design details; coordinate design and right-of-way acquisition activities; and coordinate with Department of Transportation (Department), Federal Highway Administration, environmental agencies, township officials, municipal authorities and utility companies by means of periodic meetings.

The selected firm will be required to provide a full-time, permanent staff of qualified and experienced professional engineers and support personnel required to maintain project control. In addition to the full-time staff, other in-house specialists may be required to assist with specific work tasks encountered. The Commission must approve the individual who will head the design management team.

The selected firm is required to furnish a fully equipped office in this Commonwealth, conveniently accessible and within 50 miles of the of the project area. The office must include a conference room capable of seating at least 25 people.

The following factors will be considered by the Commission during the evaluation of the firms submitting statements of interest for this project:

- a. Specialized experience and technical competence of prime consultant and subconsultants. The team must clearly demonstrate experience and competence on management of large-scale public works design projects.
- b. Past record of performance with respect to cost control, work quality ability to meet schedules and previous experience on management projects. The consultant should identify similar projects that have been completed by that firm as the prime, the magnitude of the project and the client.
- c. The specific experience and number of individuals who constitute the firm.
- d. Location of consultant's office where the work will be performed.
- e. Workload of the prime consultant and subconsultants for all Department and Commission projects.
- f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the statement of interest.

Firms expressing interest in this project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms, as defined in the Transportation Equity Act for the 21st Century (act) and currently certified by the Department, shall have the maximum opportunity to participate

in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of DBE. The goal of DBE participation in this contract will be established prior to the submission of technical proposals from the shortlisted firms for this project. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they are defined prior to the act), WBEs or combinations thereof. Proposed DBE firms must be certified at the time of submission of the statement of interest. If the selected firm fails to meet the established goal, it shall be required to demonstrate its good faith efforts to attain the goal. If further information is desired concerning DBE/MBE/WBE participation, direct inquiries to the Contracts Administration Department, (717) 939-9551 ext. 4241.

Direct inquiries about this advertisement to Jeffrey C. Davis, (717) 939-9551 ext. 5160; or by e-mail to jdavis@patrippike.com. Direct contractual questions to George M. Hatalowich at (717) 986-8737; or by e-mail to ghatalow@patrippike.com.

General Requirements and Information

Firms interested in providing the previous work and services are invited to submit a statement of interest with the required information. The statements of interest must include the following:

1. One page transmittal letter clearly identifying the project reference number, brief description of the project from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. (If the firm has multiple offices, the location of the office performing the work must be identified.)
 2. A three-page statement of interest on the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated for this project and provide explanation of the technical approach, stressing the team's ability to coordinate several construction contracts that were designed by different design consultants.
 3. An organization chart for the project, identifying key personnel and any subconsultants and their roles. Any deviation from the subconsultant's listed in the statement of interest will require written approval from the Commission.
 4. Tabulation or listing of workload for the prime consultant and all subconsultants for all Department and Commission projects. Do not graphically represent the firm's workload.
 5. A Consultant Qualification Package similar to the one submitted to the Department for the current year or one that is best suited for this project. A copy of the Consultant Qualification Package printed directly from the Department's ECMS website is acceptable.
- The Consultant Qualification Package should contain at a minimum the following information for the prime consultant and all subconsultants and attached to the back of the statement of interest (subs to follow primes):
- ECMS General Information and Project Experience Forms or Standard Form (SF) 254-Architect-Engineer and Related Services Questionnaire in its entirety, either not more than 1 year old as of the date of the advertisement.
 - Resumes of key personnel expected to be involved in the project (limit to two 8 1/2 x 11 pages, per person). Only resumes of key personnel should be included.

- Copy of the firm's registration to do business in this Commonwealth as provided by the Department of State for firms with out-of-State headquarters or corporations not incorporated in this Commonwealth.
- A copy of the Department's DBE/WBE Certification, if applicable.

If a Joint Venture responds to a project advertisement, the Commission will not accept separate statements of interest from joint venture constituents. A firm will not be permitted to submit a statement of interest on more than one joint venture for the same project reference number. Also, a firm that responds to a project as a prime may not be included as a designated subconsultant to another firm that responds to the same project advertisement. This does not preclude a firm from being set forth as a designated subconsultant to more than one prime consultant responding to the project advertisement.

Firms interested in performing the previous services are invited to submit a statement of interest and required information to George M. Hatalowich, Engineering Contract Manager, Turnpike Commission Administration Building, 700 South Eisenhower Boulevard, Middletown, PA 17057 (street address). The Commission mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

The statement of interest and required information must be received by 12 p.m., Friday, April 5, 2002. Any statements of interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable statements of interest received in response to these solicitations, three firms will be shortlisted for this contract. Technical proposals will be requested from the shortlisted firms prior to the establishment of the final ranking. An order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the Technical Review Committee and approved by the Commission.

The Commission reserves the right to reject all statements of interest, to cancel solicitation requested under this notice and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Chairperson

[Pa.B. Doc. No. 02-450. Filed for public inspection March 15, 2002, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center

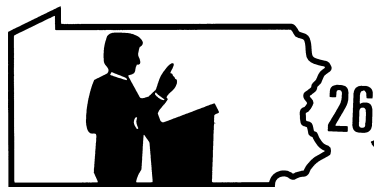
PA Department of Community and Economic Development

374 Forum Building

Harrisburg, PA 17120

800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services

Location: Harrisburg, Pa.

Duration: 12/1/93-12/30/93

Contact: Procurement Division
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)
Vendor Services Section
717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

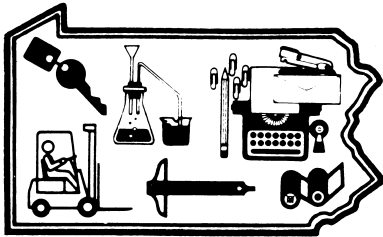
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, *"Frequently Asked Questions About State Contracts,"* explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer



Commodities

LBLA 6257 Formalin Formalin, also known as Paracide-F or Paracide-S, containing 9 to 12.5 percent methanol for stabilization, supplied in 55-gallon non-returnable drums, approx. 70 drums. NOTE: MUST BE APPROVED BY THE U.S. FOOD & DRUG ADMINISTRATION AND THE U.S. FISH & WILDLIFE SERVICE FOR USE IN FISHERIES.

Department: Fish and Boat Commission
Location: Central Warehouse, Robinson Lane, Pleasant Gap PA 16823
Duration: Delivery required during the month of June 2002
Contact: Kathi Tibbott, Purchasing Agent (814) 359-5130

1293111 Shoe Welting. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Corrections
Location: Correctional Industries Graterford, PA
Duration: FY 2001-02
Contact: Vendor Services (717) 787-2199

1247091 Rebid Teammate Software. For a copy of bid package fax request to (717) 787-0725.

Department: Insurance
Location: Harrisburg, PA
Duration: FY 2001-02
Contact: Vendor Services (717) 787-2199

LBLA 6258 Pipe & Fittings Purchase of 12" dia. ASTM-D3034 SDR 35 PVC Sewer Pipe & related fittings; Purchase of 18" dia. ASTM F-679 PVC Pipe & related fittings.

Department: Fish and Boat Commission
Location: Tionesta Fish Culture Station, Tionesta, PA
Duration: For delivery by June 30, 2002
Contact: Kathi Tibbott, Purchasing Agent (814) 359-5130

124054 Truck Tarping Systems.

Department: Transportation
Location: PennDOT, P. O. Box 507, Washington, Pa. 15301
Duration: July 1, 2002
Contact: Mitchell Ekovich (724) 223-4490

8506190 Beacon, Revolving Light. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2001-02
Contact: Vendor Services (717) 787-2199

SU-01-22 Shippensburg University is seeking vendors who are interested in providing 2,100 copies of a book published by Random House, Inc., to be used for Academic Day. Bid Due date will be March 19, 2002 by 4 p.m. Bid Opening will be held at 2 p.m. on March 20, 2002. Vendors interested in receiving a bid package should fax their request to Karen Smith at 717-477-4004 or email kmsmit@wharf.ship.edu. The University encourages responses from small and disadvantaged, minority and women-owned firms.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA 17257
Duration: Delivery Must be prior to April 23, 2002
Contact: Karen M. Smith (717) 477-1121

8157920 Software - Linear Referencing System Package. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2001-02
Contact: Vendor Services (717) 787-2199

SU-01-21 Shippensburg University is seeking vendors interesting in providing a proposal to furnish and install a Digital Interactive Multimedia Audio/Video/Data Language Learning Center. Vendor shall furnish all electronics, furniture, cables and necessary materials to provide a turnkey installation, including an instructor console/desk, and a minimum of 35 student workstations. Interested vendors may request a copy of the Request For Proposal by faxing a request to Deborah K. Martin at FAX: 717-477-4004.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA 17257
Duration: To be installed Summer 2002
Contact: Deborah K. Martin (717) 477-1121

3919042 Eggs: Pre-Incubated and 0 Day Old. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Agriculture
Location: Harrisburg, PA
Duration: FY 2001-02
Contact: Vendor Services (717) 787-2199

1305211 Medical Furniture - Hospital Beds. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Public Welfare
Location: Selinsgrove Center, Selinsgrove, PA
Duration: FY 2001-02
Contact: Vendor Services (717) 787-2199

8251290 Rebid #2 Walk Behind, Double Drum, Articulated Roller. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: Harrisburg PA
Duration: FY 2001-02
Contact: Vendor Services (717) 787-2199

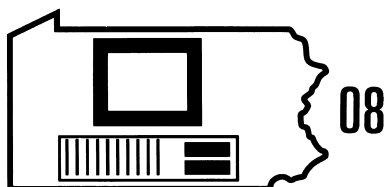
8223390 Bulk Coal Slag Abrasive - Medium Grade. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Transportation
Location: Emporium, PA
Duration: FY 2001-02
Contact: Vendor Services (717) 787-2199

6850-04 Antifreeze Products. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: General Services
Location: Warehouse, Harrisburg, PA
Duration: FY 2001-02
Contact: Vendor Services (717) 787-2199

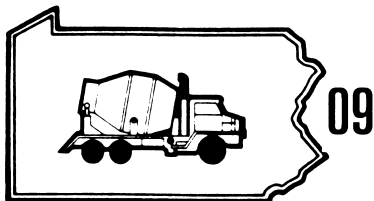
SERVICES



Computer Related Services

RFP 1R-07 Cancel RFP 1R-07 - "Sign Inventory Management and Ordering System - Maintenance, Support & Enhancements," which was published in the *Pennsylvania Bulletin* on January 19, 2002, has been cancelled.

Department: Transportation
Location: Statewide
Duration: 48 months with an option to extend
Contact: Kathy Joy-Brosius (717) 705-4665



Construction & Construction Maintenance

FDC-405-1357.1 Paving on roads, trails and parking lots in Fort Washington State Park, Montgomery County. Work includes excavating and backfilling; bituminous paving (100 tons B.C.B.C., 3,300 tons ID-2); 250 tons R4 riprap; pavement markings and signs; 1,300 L.F. of 18 inch C.P. pipe, 8 concrete inlets; seeding and mulching. Project Estimate \$100,000.00 to \$500,000.00. NOTE: Requests for bid documents may be made ON or AFTER March 4, 2002. Cost for documents is \$8.48. PAYABLE BY CREDIT CARD ONLY - American Express, Discover, Master Card or Visa.

Department: Conservation and Natural Resources
Location: White Marsh Township
Duration: 90 days
Contact: Construction Management Section (717) 787-5055

FDC-302-1520.1 Road improvements in Blue Knob State Park, Bedford County. Work includes 4,600 tons of bituminous paving; 250 tons riprap; 230 C.Y. of excavation; 1,080 tons of aggregate; line painting; 9,200 S.F. of membrane waterproofing, and 6,000 L.F. of guide rail. Project Estimate - \$100,000.00 to \$500,000.00. NOTE: Requests for bid documents may be made ON or AFTER March 4, 2002. Cost of documents is \$8.48. PAYABLE BY CREDIT CARD ONLY - American Express, Discover, Master Card or Visa.

Department: Conservation and Natural Resources
Location: Union Township
Duration: Complete all work in 90 days
Contact: Construction Management Section (717) 787-5055

BL-654 Renovations to Carver Hall Bell Tower & Roof: Provide all labor, material and equipment necessary to replace the entire slate roof system, removal of an existing exterior skylight and replacement of the flat roof area with new membrane roofing, structural reinforcement of the existing roof structure and bell tower, removal of lead based paint on the exterior of the bell tower facades. To obtain a copy of the bid documents send a \$100 non-refundable deposit to Larson Design Group, Attn: Robert Gehr, 1000 Commerce Drive, Williamsport, Pa. 17701 Tele (570) 323-6603. There will be on prime contractor - General. Information regarding the prebid and bid opening info will be included in the package.

Department: State System of Higher Education
Location: Bloomsburg University, Bloomsburg, PA
Duration: 150 Calendar Days
Contact: Joseph C. Quinn (570) 389-4311

10973001 Contractor to supply all labor, materials, tools, equipment and appurtenances to replace the designated existing metal windows in Building 07.

Department: Public Welfare
Location: Torrance State Hospital, State Route 1014, Torrance, PA 15779
Duration: Work to be completed in 200 calendar days from effective date of contract.
Contact: Linda J. Zoskey (724) 459-4547

63-0185 New fiber optic indoor/outdoor rated backbone cable ring from E.O. Bull Center to the People's Building to Killinger Hall to E.O. Bull Center. In addition, fiber optic indoor/outdoor rated backbone cable from the Warehouse to the People's Building. New outside plant conduit ductbanks, new closet racks, wall penetrations, pull boxes, fire stopping, cable runways, cable supports, telecommunications grounding and bonding, plywood backboard in Killinger Hall and all miscellaneous appurtenances. The Mechanical contractor will be responsible for the general construction, mechanical and electrical portion of the project which includes the demolition of existing drywall partitions, infill of existing drywall door openings, new door installation in existing CMU wall, associated patching, finishing and painting, new wall mounted A/C Unit, condensing unit and associated piping, electrical power distribution, lighting, branch circuit panelboard to support additional power loads and branch circuit power wiring to devices. Conduit/control cabling for the HVAC system.

Department: State System of Higher Education
Location: West Chester University, West Chester, PA 19383
Duration: Work to begin on May 22, 2002 and be completed by August 20, 2002.
Contact: Marianne Peffall, Contracts Manager (610) 436-2705

63-0186 The Project consists of Work included under this project consists of renovations to existing telecom closets in People's, Sturzebecker, Main Hall, Mitchell Hall, Anderson Hall, Speakman, Farrell Stadium, Nursing and 201 Carter Drive, providing new closets or a combination of both. If required, provide new fiber optic cabling to connect any new telecom closet(s) with the main closet in each building and Electrical work at the Peoples Building and the Boiler Plant. Work shall include, but is not necessarily limited to, the furnishing of all labor, superintendence, materials, tools and equipment and performing all work necessary to complete all General, HVAC, Electrical and Telecom Construction.

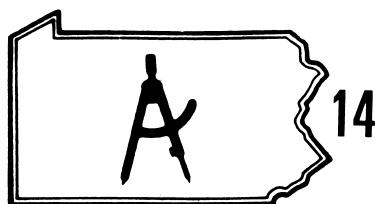
Department: State System of Higher Education
Location: West Chester University, West Chester, PA 19383
Duration: The work will begin on May 22, 2002 and must be completed by September 13, 2002, except for work relating to the generator must be completed
Contact: Marianne Peffall, Contract Manager (610) 436-2705

CL-551 Upgrade Parking Lot & Rugby Field CL-551 Upgrade Parking Lot & Rugby Field: Clarion University is soliciting bids for construction of a 96 space bituminous parking lot, construction of a rugby field, installation of a crosswalk on Route 322 and associated electrical work for lighting the areas. Contracts to be awarded for general and electrical construction. Pre-bid Conference: 10 a.m., March 22, 2002 in McEntire Maintenance Building. Bids Due: 2 p.m., April 5, 2002. Bid packages available by submitting \$20, non-refundable fee, payable to the university, to: Judy McAnich, Contract Specialist, 218 Carrier, Clarion University, 840 Wood Street, Clarion, PA 16214.

Department: State System of Higher Education
Location: Clarion University/SSHE, Clarion County, Clarion, PA
Duration: 90 Days from Notice to Proceed
Contact: Judy McAnich, Contract Specialist (814) 393-2240

1712 Remove existing EPDM single-ply ballasted roof system and misc. related items. Install approx. 80.5 squares of thermoplastic type single-ply fully adhered roof system to include all related items. For a copy of the bid please fax your request to (717) 861-2932 or e-mail to blower@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 160 George Junior Road, Grove City, PA
Duration: DOA - 30 June 2002
Contact: Brenda Lower (717) 861-2118



Engineering Services

PennDOT-ECMS The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at www.dot2.state.pa.us.

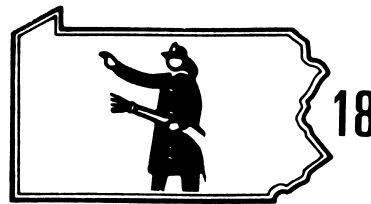
Department: Transportation
Location: Various
Contact: www.dot2.state.pa.us



Financial and Insurance Consulting

RFP 2002-1-CHIP The Insurance Department, Children's Health Insurance Program (CHIP) is issuing a Request For Proposal (RFP) to provide health care insurance coverage for eligible children under 19 years of age. This Request for Proposal (RFP) is being issued pursuant to the authority of section 1301 (F) of Act 77 of 2001. An entity interested in submitting a proposal must be a health plan corporation, a health maintenance organization, a risk-assuming preferred provider organization, or a life or health insurance corporation, and may include an affiliate or subsidiary as a co-contractor. In order to qualify for the award of a contract, an entity submitting a proposal must have met all the applicable licensing requirements of the Department. In addition, where applicable, any such entity must have met all the applicable licensing requirements of the Insurance Department and the Department of Health. Qualified entities, and other interested entities or persons, interested in the RFP may obtain a copy via the Internet on or after March 18th, 2002 at www.chiprfp.state.pa.us. Any related information regarding the RFP will be posted on the RFP web site. In the event that a party does not have Internet capability, a copy of the RFP may be obtained by contacting the Department by either by e-mail, facsimile, or mail. Requests should be directed as follows: Commonwealth of Pennsylvania, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, Attn: Mr. Sandy Segal. FAX: (717) 705-1643. E-mail: chiprfp@ins.state.pa.us All proposals are due by April 23, 2002, no later than 11 am, to the Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120. Proposals received after this time will be returned unopened.

Department: Insurance
Location: Statewide
Duration: Three years
Contact: Sandy Segal (717) 705-6830



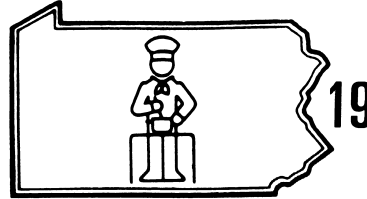
Firefighting Services

407059 Contractor to furnish necessary labor and testing equipment/materials to perform the testing, recharging, and replacement of fire extinguishers, S.C.B.A. and specialized fire equipment. All work shall be completed in accordance with NFPA Standard 10, 1981 & 1962, D.O.T., O.S.H.A. and manufacturer's guidelines (most current editions).

Department: General Services
Location: Bureau of Maintenance Management, Room 403, North Office Building, Harrisburg, PA. 17125
Duration: CONTRACT PERIOD: 07-01-02 through 06-30-05
Contact: William Balchunas (717) 783-1170

APR #407015 Contractor to furnish the necessary labor and testing equipment/materials to perform a inspection test and maintenance once every three (3) months on the Halon and Kitchen Fire Extinguishing Systems located within the following building: East Wing Bldg. (IMCS), Governor's Res., Forster St. Bldgs., and Rachel Carson Bldg.

Department: General Services
Location: Dept. of General Services, Bur. of Maintenance Management, Room 403, North Office Building, Harrisburg, PA 17125
Duration: July 1, 2002 thru June 30, 2005
Contact: Bill Balchunas (717) 783-1170



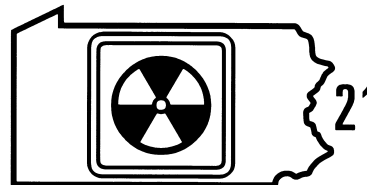
Food

PROC 01-40 Provide milk and dairy products to Department of Public Welfare facilities for a 12-month period beginning July 1, 2002. Copies of the Bid Proposal can be obtained by contacting the Procurement Office or by facsimile at (717) 787-3560.

Department: Public Welfare
Location: Each Department of Public Welfare location - Statewide
Duration: July 1, 2002 through June 30, 2003.
Contact: Rose Wadlinger (717) 783-3767

6500-126 Bread and rolls—Assorted varieties on a as needed basis per institutional requirements.

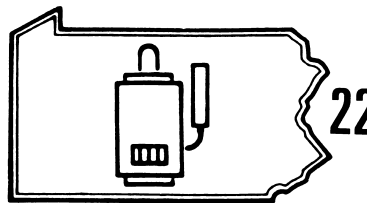
Department: Corrections
Location: State Correctional Institution at Retreat, 660 State Route 11, Hunlock Creek, PA 18621
Duration: July 01, 2002 to June 30, 2003
Contact: Barbara Swiatek (570) 735-8754



Hazardous Material Services

APR #407013 Contractor to provide all materials, labor, testing, analysis, transportation and disposal of hazardous waste.

Department: General Services
Location: Dept. of General Services, Bur. of Maintenance Management, Room 403, North Office Building, Harrisburg, PA 17125
Duration: July 1, 2002 thru June 30, 2005
Contact: Bill Balchunas (717) 783-1170



HVAC Services

1381021148 Provide emergency and routine repair work for heating system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armories, 1307 Grove St., Williamsport, PA and 1300 Penn St., Williamsport, PA
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel (717) 861-8579

1381021147 Provide emergency and routine repair work for electric system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armories, 1307 Grove St., Williamsport, PA and 1300 Penn St., Williamsport, PA
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel (717) 861-8579

SP1111100002 The contractor shall furnish/supply & install all parts/materials needed for an air washer/steam exhauster at the PA DOC Training Academy's boiler plant.

Department: Corrections
Location: PA Department of Corrections, Training Academy, 1451 N. Market Street, Elizabethtown, PA 17022
Contact: Daniel Rhome (717) 361-4354



Janitorial Services

SP3520024045 Provide janitorial services for the Department of Environmental Protection, Knox District Office, White Memorial Building, Best Avenue, Knox, Pennsylvania.

Department: Environmental Protection
Location: Knox, PA
Duration: Through 6/30/03, with option to renew
Contact: Sherry Morrow (717) 772-1216

Bid #8509 Furnish all equipment, materials and labor to perform janitorial services at our Bureau of Emergency & Special Operations. Detailed Work Schedule and Bid must be obtained from Facility Management Division, (717) 705-5951.

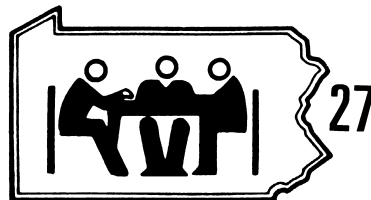
Department: State Police
Location: Bureau of Emergency & Special Operations, 171 East Hershey Park Drive, Hershey, PA 17033
Duration: 7/1/02 to 6/30/05
Contact: Donna Enders (717) 705-5951



Laboratory Services

407065 AWARDED CONTRACTOR shall provide laboratory analysis for the types of environmental samples listed under the Scope of Work on pages 5, 6, and 7 of the Special Conditions and Specifications.

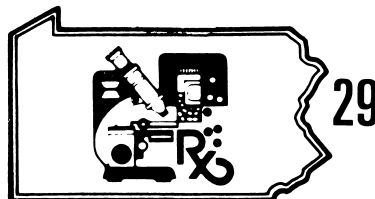
Department: General Services
Location: Bureau of Maintenance Management, Room 403, North Office Building, Harrisburg, PA. 17125
Duration: July 1, 2002 through June 30, 2005
Contact: William Balchunas (717) 783-1170



Lodging/Meeting Facilities

2002 Symposium The Pennsylvania Emergency Management Agency (PEMA) is soliciting bids to provide facilities, lodging, meals, etc. to conduct a 2002 Regional Counter-Terrorism Task Force Symposium in the Central Region of the Commonwealth of Pennsylvania on May 15-16, 2002. Facilities required for this Symposium are lodging rooms and breakfast for up to 210 people, formal dinner for up to 230 people, and a reception room for one day. If you are interested in receiving a detailed bid package for this symposium, please contact Christopher Nolan at cnolan@state.pa.us or (717) 651-2189.

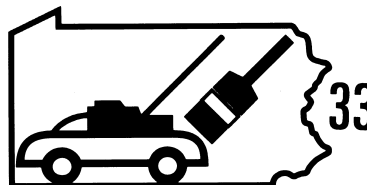
Department: PA Emergency Management Agency
Location: The facility must be within a radius of 10 miles driving distance from 2605 Interstate Drive, Harrisburg, PA 17110
Duration: May 15-16, 2002
Contact: Christopher Nolan (717) 651-2189



Medical Services

SP 20783007 Youth Forestry Camp No. 2 is soliciting bids for professional dental work to be performed at an off-grounds dental office. These services are to be provided twice weekly, 2 hours each, or on an "as needed" basis. Please fax us at 570-459-3851 to request a bid package.

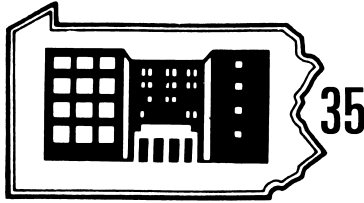
Department: Public Welfare
Location: Youth Forestry Camp No. 2, Hickory Run State Park, R. R. 1 Box 82, White Haven, PA 18661
Duration: July 1, 2002 to June 30, 2003
Contact: Susan E. Wilkinson, Business Manager (570) 443-9524



Property Maintenance

630502 Furnish and install 7 galvanized steel curtains on Cowans Gap State Park Food Concession Building.

Department: Conservation and Natural Resources
Location: Cowans Gap State Park, 6235 Aughwick Rd., Fort Loudon, PA 17224
Duration: 06/30/02
Contact: Steve Behe (717) 485-3948



Real Estate Services

93313 LEASE OFFICE/CLINIC SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Health with 2,770 useable square feet of office/clinic space in Centre County, PA. with minimum parking for twenty (20) vehicles. The offered space must be located within the following boundaries of State College: NORTH: College Avenue; SOUTH: Easterly Parkway; EAST: University Drive; WEST: Atherton Street. In areas where street or public parking is not available, an additional ten (10) parking spaces are required. Downtown locations will be considered. For more information on SFP #93313 which is due on May 6, 2002 visit www.dgs.state.pa.us or call (717) 787-4394.

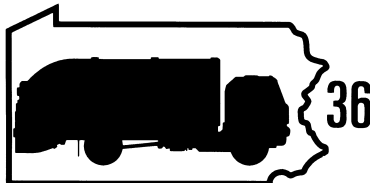
Department: Health
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: John Hocker 717-787-4396

93394 LEASE OFFICE/CLINIC SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Health with 2,966 useable square feet of office/clinic space in Northumberland County, PA. with minimum parking for 10 vehicles. The offered space must be located within the city limits of Sunbury. In areas where street or public parking is not available, an additional ten (10) parking spaces are required. Downtown locations will be considered. For more information on SFP #93394 which is due on May 6, 2002 visit www.dgs.state.pa.us or call (717) 787-4394.

Department: Health
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: John Hocker (717) 787-4396

93393 LEASE OFFICE/CLINIC SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Health with 2,493 useable square feet of office/clinic space in Beaver County, PA. with minimum parking for 10 vehicles. The offered space must be located within the Beaver Borough municipal limits. In areas where street or public parking is not available, an additional ten (10) parking spaces are required. Downtown locations will be considered. For more information on SFP #93393 which is due on May 13, 2002 visit www.dgs.state.pa.us or call (717) 787-4394.

Department: Health
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: John Hocker (717) 787-4396



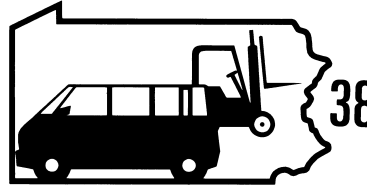
Sanitation

SP3862102001 Sealed bids will be received at Dept. of Conservation and Natural Resources, Park Region #2, P.O. Box 387, 195 Park Road, Prospect, PA 16052-0387 and then publicly opened and read on April 3, 2002, at 2 p.m. prevailing time. For Sewage Treatment Plant Pumping at Moraine State Park. A bid proposal containing all pertinent information must be obtained from the office of the Park Manager, Moraine State Park.

Department: Conservation and Natural Resources
Location: Dept. of Conservation and Natural Resources, Moraine State Park, 225 Pleasant Valley Road, Portersville, PA 16051-9650
Duration: July 1, 2002 to June 30, 2005
Contact: Moraine State Park (724) 368-8811

012016 Dispose of roadside trash and construction/demolition materials delivered by Department trucks on an as needed basis.

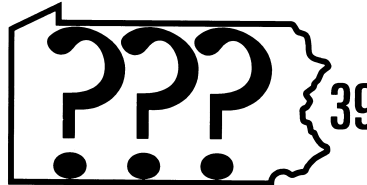
Department: Transportation
Location: Disposal site: PA Department of Transportation, 9031 Peach Street, Waterford, PA 16441
Duration: One (1) year
Contact: Jean Zarger (814) 871-4411



Vehicle, Heavy Equipment and Powered Machinery Services

125-25 Automatic tarps for tandem trucks.

Department: Transportation
Location: PENN DOT 12-5, P. O. Box 189, Greensburg, PA 15601
Duration: 3-6 MONTHS
Contact: Keith Howard (724) 832-5387 EXT 220



Miscellaneous

08-100225 RAB-accredited, independent third-party registrar needed to perform ISO 14001 audits for PENNDOT District 10-0 office as part of a pilot program for PENNDOT to develop a Strategic Environmental Management Program (SEMP) that conforms with the ISO 14001 Environmental Management System Standard. The scope of this audit will be the District 10 maintenance unit operations and facilities located in Armstrong, Butler, Clarion, Indiana and Jefferson counties. In accordance with the provisions of Section 4.3.1 of ISO 14001, the District 10 Maintenance Unit SEMP focuses on the significant aspects of the following operations: *Stockpile and Garage Operations; *Erosion and Sedimentation Control (during roadway maintenance activities); and *Winter Services (application of anti-icing, deicing and antiskid materials). One of PENNDot's first SEMP goals is to obtain an ISO 14001 Certification of Registration for the District 10 Maintenance Unit SEMP by December 31, 2002. Interested bidders may request a bid package by faxing the name of a contact person, their company name, address, phone number and fax number to Diane Spence at (724) 357-2872.

Department: Transportation
Location: PENNDOT Engineering District 10-0 (Armstrong, Butler, Clarion, Indiana and Jefferson Counties)
Duration: Approximately 3 years
Contact: Diane Spence (724) 357-7987

APR #407016 Contractor to furnish the necessary labor, materials, parts and equipment for the repair or overhaul/rebuilding of approximately 400 motors of various sizes and manufacturers.

Department: General Services
Location: Dept. of General Services, Bur. of Maintenance Management, Room 403, North Office Building, Harrisburg, PA 17125
Duration: July 1, 2002 thru June 30, 2005
Contact: Robert Spoljaric (717) 787-7606

SP3520023736 Provide subscription service for the Technical Reference Library for technical journals, periodicals and annuals.

Department: Environmental Protection
Duration: Through 6/30/07
Contact: Sherry Morrow (717) 772-1216

SP3102001 The PA Emergency Management Agency (PEMA) is soliciting bids to a firm which provides a service that tests for radiation exposure using Thermoluminescent Dosimeters (TLDs) or Permanent Record (PRD). The TLD/PRD will provide a permanent record of the amount of radiation received and will be distributed to Nuclear Power and Generating Stations throughout Pennsylvania. To receive a bid package, please contact Fiscal Management at (717) 651-2189 or send an e-mail to cnolan@state.pa.us referencing SP 3102001.

Department: PA Emergency Management Agency
Location: PA Emergency Management Agency, 2605 Interstate Drive, Harrisburg, PA 17110-9364
Duration: July 1, 2002 through June 30, 2003
Contact: Chris Nolan (717) 651-2189

KURFP-0046 Kutztown University is seeking proposals from qualified vendors for coin and card operated copier service. Vendors should offer a range of copiers and features to meet the needs of the University. The resulting contract will be a revenue-sharing program. Interested vendors must submit their request for a Request for Proposal packet in writing to: Kutztown University, Attn: Craig Kleinsmith, Purchasing Dept., P. O. Box 730, Kutztown, PA 19530, Ph: (610) 683-4774, Fax: (610) 683-4674, e-mail: kleinsmi@kutztown.edu. RFP packets will be available from March 18 to March 22, 2002. Questions requiring clarification prior to proposal submissions must be submitted in writing prior to 12 Noon on March 29, 2002. Proposals are due by 2 p.m. on April 8, 2002. Late submissions will not be accepted. Faxed proposals will not be accepted.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: 3 years after date of notice to proceed
Contact: Craig Kleinsmith (610) 683-4774

1010-036 Contractor to remove dead deer on State Routes 28, 66, 422, 839, 210, 56, 85, 268 from County line to County line in Armstrong County. The quantity of deer will be estimated on contract and contractor will agree to provide more or less at the same price. State Routes may be added or deleted at the discretion of the Department. This contract will have the option for 1 renewal by letter.

Department: Transportation
Location: PA Department of Transportation, Armstrong Co., District 10-1, P. O. Box 1016, Kittanning, PA 16201-1016
Duration: Contract will be for 1 year with 1 renewal option
Contact: Susan Carson (724) 543-1811

[Pa.B. Doc. No. 02-451. Filed for public inspection March 15, 2002, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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KELLY POWELL LOGAN,
Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
0061-11	03/01/02	Kutco Printing & Products	\$ 24,616.00
2550-02 rebid	02/22/02	Bowersox Truck Sales	175,000.00
2550-02 rebid	02/22/02	Plasterer Equipment	70,000.00
2550-02 rebid	02/22/02	Sunbury Motor	105,000.00
2550-02 rebid	02/22/02	W W Engine & Supply/ Mack Sales	70,000.00
6530-01 sup#1	02/22/02	Para Scientific	200,000.00
6530-01 sup#1	02/22/02	Tewin Medical	100,000.00
6810-04	03/01/02	George Coyne Chemical	31,581.15
6810-04	03/01/02	Greer Lime	65,862.00
8135-01	03/15/02	National Packaging	475,782.00
8520-01 rip#2/ sup#2	02/22/02	Allstate Distributors	100,000.00
8520-01 rip#2/ sup#2	02/22/02	Graham Distributing	100,000.00
8520-01 rip#2/ sup#2	02/22/02	Sage Products	100,000.00
9120-04 sup#5	02/22/02	Sempra Energy Solutions	2,000,000.00
9120-04 sup#5	02/22/02	BP Energy	2,000,000.00
9905-11 sup#1	03/06/02	Eastern Metal of Elmira	70,350.00

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
1139221-01	03/04/02	Cumberland Truck Equipment	220,017.00
1162231-01	03/04/02	Moyer & Son	35,768.19
1167341-01	03/04/02	Azcar	1,156,318.65
1170221-01	03/04/02	Praxair	17,389.00
1188111-01	03/04/02	Pac Industries	43,125.00
1204111-01	03/04/02	Custom Computer Specialists	26,332.24
1219151-01	03/04/02	Philadelphia Gear	43,407.00
1241071-01	03/04/02	Westpointe	19,081.00
1246231-01	03/04/02	Five Thousand Forms	55,904.40
1252111-01	03/04/02	Sandel International	23,500.00
8169510-01	03/04/02	American Stone-Mix	41,101.20
8172070-01	03/04/02	Golden Eagle Construction	491,991.50
8251290-01	03/04/02	Ingersoll-Rand Equipment	18,600.00
8251520-01	03/04/02	Westgate Chevy/Apple Chevy	146,315.00
8254010-01	03/04/02	Diamond Specialized	328,000.00
8506150-01	03/04/02	Truck Parts Plus	27,996.00

KELLY POWELL LOGAN,
Secretary

[Pa.B. Doc. No. 02-452. Filed for public inspection March 15, 2002, 9:00 a.m.]

RULES AND REGULATIONS

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA. CODE CHS. 89 AND 89a]

Long-Term Care Insurance

The Insurance Department (Department) deletes Chapter 89, Subchapter M and adds Chapter 89a (relating to long-term care insurance model regulation) to read as set forth in Annex A. Chapter 89a sets forth the requirements for the content and filing of long-term care insurance form and rate filings.

Statutory Authority

The rulemaking is adopted under the authority contained in sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) and sections 1101—1115 of The Insurance Company Law of 1921 (act) (40 P. S. §§ 991.1101—991.1115).

Comments and Response

Notice of proposed rulemaking was published at 31 Pa.B. 5553 (October 6, 2001) with a 30-day comment period. During the 30-day comment period, comments were received from Independence Blue Cross (IBC), the Insurance Federation of Pennsylvania, Inc. (IFP), the Independent Insurance Agents of Pennsylvania, the Pennsylvania Association of Insurance and Financial Advisors and the Pennsylvania Association of Health Underwriters (AGENTS).

On December 6, 2001, as part of its regulatory review, the Independent Regulatory Review Commission (IRRC) submitted comments to the Department. The following is a response to those comments.

Rather than listing the sections of the regulations where commentators expressed their full support, the Department would like to express its sincere thanks to those commentators for supporting the regulations.

Section 89a.103. Definitions.

The AGENTS noted that the terms “producer,” “agent” or “broker” are all used throughout various sections in the regulations. It was recommended that the term “producer” be used throughout the regulations. The AGENTS further noted that the term “producer” should be redefined as, “a licensee that solicits, sells or negotiates an insurance product.”

IRRC noted that the term “producer” was defined, yet the regulations contained reference to the terms “agent” and “broker.” Therefore, the term “producer” needs to be used consistently throughout the regulations and the terms “agent” and “broker” should be replaced with “producer.”

The Department agrees and has made the change as requested to use the term “producer” consistently throughout the regulations. However, the Department has retained the current definition as it cites current statutory law.

Definitions of “exceptional increase”

The AGENTS commented that the wording was somewhat unclear and the criteria for approving premium schedule rate increases is not clearly spelled out in the regulation. They suggested the following substitution:

“Rate increases. Those increases in premiums for long-term care policies, which are either schedule rate increases or exceptional rate increases.

(a) Schedule rate increases are those premium increases approved by the Commissioner when . . . (list the conditions under which a schedule rate increase may occur.)

(b) Exceptional increases are those premium increases deemed by the Commissioner to be outside of the scope of schedule rate increases and based on justification that:

(i) Due to changes in laws and regulations . . .

(ii) Due to increased and unexpected utilization . . .

(iii) Except as substantiated by an actuarial review requested by the Commissioner.”

The Department has taken the language from the National Association of Insurance Commissioners (NAIC) Long-Term Care Insurance Model Regulation (Model) and believes that the language is sufficiently clear both in the definition and as well as in § 89a.118 (relating to premium rate schedule increases). No change was made.

Section 89a.104. Policy definitions.

Definition of “bathing”

The IFP stated that the various components of the activities of daily living are essential to triggering benefits under long-term care policies and any variation from state to state would cause administrative problems. Several IFP members noted that in the definition of “bathing” in § 89a.104, the Department has added to the NAIC Model definition the phrase, “. . . or drawing the water for a sponge bath and getting the equipment to the person or the person to the equipment.”

The IFP believed that this is a complicating addition for several reasons. First, it implies that some element in this Commonwealth differs from the understanding of insurers around the country about this term. Presumably, getting to and from the bathing location and equipment is an integral part of being able to wash oneself. Second, the introduction of the capabilities of a second person who may be bringing the person to the equipment or the equipment to the person is simply confusing. Individuals cannot acquire an Activity of Daily Living (ADL) from a caregiver.

The IFP believed that unless there is some major need for this additional phrase, it should be deleted, staying with the NAIC Model’s definition.

IRRC also had concerns with the term “bathing.” They stated that the definition of this term begins with a reference to “oneself,” but concludes with the phrase “or drawing the water for a sponge bath and getting the equipment to the person or the person to the equipment.” It is IRRC’s understanding that the Department did not intend for the definition to encompass the services of a second person. Therefore, the definition should be revised to clarify this point. Further, IRRC requested the Department to provide an explanation for the deviation from the NAIC Model language.

This phrase is not included in the definition of “bathing” in the NAIC Model. Furthermore, the references to transporting equipment or the person imply that a second person is involved in the bathing process.

The Department agrees with all comments and has changed the definition to mirror the NAIC Model language.

Definition of "cognitive impairment"

The IBC expressed concerns about the definition of "cognitive impairment" and that the regulations define cognitive impairment without the ability of an insurer to qualify the level of impairment for purposes of benefit eligibility. Although the IBC recognizes that the proposed definition is the medical standard, the IBC believed that the term "deficiency," which is defined in the dictionary as "inadequacy," is not a sufficiently significant standard to trigger benefits for the type of cognitive impairment covered by long-term care insurance policies. Further, it appears that the draft regulations can be interpreted to prohibit an insurer from establishing an appropriate standard to determine the level of cognitive impairment subject to long-term care insurance benefits. While the IBC did not object to a definition requiring only one type of deficiency before a person would be determined cognitively impaired, it seems that the language of the draft regulations could allow benefits to be triggered for minimum cognitive impairment when a person is still capable of functioning independently. The IBC believed that the draft definition ultimately could lead to an inordinate number of claims for minimal cognitive impairment, and this could adversely affect premium rates for future policyholders.

In the alternative, the IBC suggested that the Department adopt a definition that allows the policyholder with moderate to severe cognitive impairment to appropriately claim benefits as well as the insurer to develop rates for long-term care insurance that are affordable by the consumer. In this regard, the IBC suggested the following definition:

"Cognitive impairment" means a [significant deficiency/deterioration] in a person's short-term or long-term memory, recognition as to person, place and time, deductive or abstract reasoning, or judgment [as it relates to safety awareness/that requires continual supervision to protect the individual covered under the policy].

An alternative would be to retain the draft definition but include in the regulations an express provision that allows insurers to determine at least a moderate level of cognitive impairment for a policyholder to claim benefits.

The Department does not agree and is retaining the definition as contained in the NAIC Model. Cognitive impairment should be determined by standardized testing therefore the change was not warranted.

Definition of "long-term care insurance"

The AGENTS stated that a restatement of section 1103 of the act (40 P.S. § 991.1103) would be useful in the regulations to show that it includes qualified and non-qualified products, which are then defined separately in the definition.

The Department does not believe that a reiteration of the statute would add any substantive clarification. Therefore no change has been made.

Definition of "mental or nervous disorder"

The AGENTS stated that the definition should be checked to see if it is compliant with the Healthcare Insurance Portability and Accountability Act (Pub. L. No. 104-191, 110 Stat. 1836) (HIPAA) and the act of December 21, 1998 (P.L. 1108, No. 150) (Act 150) regarding conditions covered under mental health parity. If there is

a group long-term care policy with over 50 lives, the definition may need to be compatible. In addition to the text of covered conditions, there should be proper legislative citation.

The Department disagrees as the HIPAA and Act 150 specifically exempt the long-term care policies from this requirement.

Definition of "home health care service"

The AGENTS raised the issue of whether this regulation complies with the act of December 20, 2000 (P.L. 967, No. 132) (Act 132) as it relates to home health care services.

The Department believes that the intent of section 4 of Act 132 (40 P.S. § 991.1103) was to include home health care service contracts under the definition of insurance rather than to define the actual services to be provided by home health care services. Any entity selling home health care service contracts that meets the revised definition in the Long-Term Care Act would be subject to these regulations. Therefore, no change was made.

Definition of "Medicare"

The IFP stated that in referring to the Federal legislation which constitutes this program, this definition omits the NAIC phrase "and any later amendments or substitutes thereof." Since the purpose of defining this term is presumably to treat benefits under that program as a whole, adding this phrase will prevent any inadvertent gaps from being created by changes in the Medicare program over time. They suggested the quoted phrase to contemplate future changes.

IRRC stated that this definition is similar to the corresponding definition in the NAIC Model. However, the NAIC Model definition of "Medicare" references "any later amendments or substitutes thereof." The Department should revise the definition to include the NAIC language. Otherwise, the definition will not encompass future amendments to the Medicare statutes.

The Department agrees and has made the requested changes.

§ 89a.104(b)

The IFP stated that identifying providers of services may depend on their appropriate licensure or certification, the Department has added the phrase "when the licensure or certification of the provider is required by the Commonwealth." The phrase, which varies from the NAIC Model, causes a problem by implying that appropriate licensure may not be required if another state does not have that requirement.

Since licensure or certification usually includes oversight, long-term care insurers would be hesitant to cover and somewhat lost to underwrite care provided at facilities not subject to that oversight. The IFP proposes that this phrase be deleted.

IRRC had concerns with subsection (b) which addresses the definitions of various service providers. The last sentence states, "The definition may require that the provider be appropriately licensed or certified when the licensure or certification of the provider is required by the Commonwealth." IRRC believed that this sentence was confusing and that the intent of this provision should be clarified in the final-form regulations.

The Department is concerned that long-term care insurers could require providers of services who are not subject to Commonwealth licensure or certification to be licensed or certified in order to cover their services. The section

has been modified to clarify that an insurer can require licensure or certification "only" if the "state in which the provider is located" requires licensure or certification of that provider.

Section 89a.105. Policy practices and provisions.

Definition of "level premium"

The IBC believed the proposed definition of "level premium" should be clarified by the addition of the phrase "for an individual person" after the phrase "change the premium." Otherwise, the absence of the term "level premium" may incorrectly lead the consumer to believe that the policy premium can change due to individual circumstances, such as attained age, health status, etc.

The Department is following the NAIC Model language and believes that the intent of this strict language is to not permit the use of the term "level premium" in any circumstance where the insurer has the ability to change the premium. The NAIC Model language was retained and no change was made.

Mental or nervous disorders

The IFP stated that § 89a.105(b)(1)(ii) prohibits the exclusion or limitation of benefits based on someone having "Alzheimer's Disease or other related degenerative or dementing illnesses." In that these diseases are not clearly defined, the IFP suggested that the Department use the language within the § 89a.126(e)(12) (relating to standard format outline of coverage) prohibiting exclusion for "insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses."

The IFP believed that while this would not operate as a complete definition, it would guarantee a clinical diagnosis of Alzheimer's or a related condition.

IRRC commented that the reference to "other related degenerative or dementing illnesses" in § 89a.105(b)(1)(ii) is vague and is not in the NAIC Model. IRRC further suggested that these terms should be clarified or deleted.

The Department agrees with the comments and has made the clarifying change as suggested by the IFP and IRRC. The Department added the additional language to be consistent with the language contained in the standard format Outline of Coverage in § 89a.126(e)(12). The standard format Outline of Coverage is consistent with the current regulation in § 89.919(5)(10) (relating to standard format for outline of coverage).

Premium rate increase

The AGENTS noted that in § 89a.105(f)(2), a reduction in benefits is not considered a premium change, and questioned whether the insurer should issue a retro credit or premium rollback to the initial annual premium date or whether the initial premium rate remains with reduced benefits.

The Department would like to clarify that § 89a.105(f)(2) and (3) are specifically related to the nonforfeiture benefit requirement in § 89a.123 (relating to nonforfeiture of benefit requirement). These two paragraphs define how initial premium levels are determined when changes in coverage levels have occurred that may trigger the nonforfeiture benefit. These paragraphs do not require insurers to issue retro credits or premium rollbacks. Therefore, the Department does not believe any further clarification or changes are necessary.

Privileged Information

IRRC mentioned that § 89a.105(g)(1)(iii) requires that telephonic or electronic enrollment include safeguards that assure the confidentiality of "individually identifiable information." This provision in the NAIC Model includes the terms "individually identifiable information" and "privileged information." The NAIC Model also references a definition of "privileged information." The Department should explain why the term "privileged information" is not in this provision in the proposed rulemaking.

The Department did not incorporate this language because the NAIC Model references a definition that has not been adopted in the Commonwealth in either statute or regulation. Furthermore, privacy concerns have been addressed by Chapter 146a (relating to privacy of consumer financial information). In addition, the health information will be covered with the promulgation of Chapter 146b (relating to privacy of consumer health information). Thus, broad privacy protection will be accomplished by means of two different regulations.

Section 89a.106. Unintentional lapse.

The AGENTS stated that in § 89a.106(a)(3) the following should be inserted "The 30-day notice by the insurer to the insured of a lapse for nonpayment of premium should be preceded by a notice from the insurer to the insurance producer." The AGENTS believed that the goal is to keep people covered. A producer can follow up to see if the premium notice was overlooked or that the insured's medical condition changed so that the bill was not paid. The AGENTS felt it is good public policy to prevent unintentional lapses in coverage. Requiring notification to the individual producer as soon as the termination date occurs puts the person who has the greatest interest in policy retention into the front line of clarifying the cause for the unintentional lapse. Producer notification as soon as the due date passes gives the consumer a chance to preserve coverage.

The Department wants to clarify that this regulation allows the insured to designate one additional person to be notified upon the lapse or termination of the policy. The insured has the choice of that designation. The Department can appreciate the AGENTS concerns and therefore have no objection to having an insured name the producer as an alternate to receive notices, if that is what the insured desires. However, it would be unduly burdensome on insurers to mandate that they also send the producer a notice of lapse or termination. Furthermore, this would be a significant deviation from the NAIC Model. Nothing in the regulation prohibits an insurer from notifying the producer of a lapse or termination in addition to the insured and their designee.

Section 89a.108. Required disclosure of rating practices to consumers.

In general, the IBC agreed with the intent of the draft regulations to protect the consumer by establishing new regulatory standards on disclosure and development of premium rates. The IBC believed that certain insurers in the long-term care marketplace have engaged in predatory pricing practices from time to time to the detriment of the consumer. Predatory pricing can result in large rate increases often unaffordable for individual policyholders, who potentially would be left without coverage. This practice damages the industry's reputation as well. Long-term care insurance is a relatively immature product without a large experience base or standard policies. Therefore, a significant amount of actuarial judgment is involved in developing rates. Furthermore, unlike health

insurance, claims experience can take a long time to develop as well as be subject to short-term fluctuations. The practice of a 10-year "look back" period covers a period in which there were significant changes in the long-term care insurance marketplace. The IBC was concerned that a long period could result in irrelevant or potentially misleading information being presented to the consumer. Therefore, the IBC recommends a shorter "look back" period, such as 5 years.

The AGENTS stated that § 89a.108(b)(5) requiring 10 years' rate experience seemed like consumerism but it may be hard to achieve. Products change. The long-term care policies have evolved considerably over the past few years. Specific coverage being offered now may not have existed 10 years ago, as with qualified long-term care policies which did not come into existence until the HIPAA in 1996. The AGENTS recommended that subsection (b)(5) be deleted.

The AGENTS also stated that § 89a.108(c) requiring consumer signature attesting to the fact that he has read the cost of the product's evolution over 10 years may be meaningless because, as mentioned previously, the product is not the same. Besides, the consumer is more interested in what is being obtained now. That is a little like saying that a small group two-person health product costing \$722 per month now only cost \$200 10 years ago is relevant. It's not relevant to today's sale because the world has changed with new mandates, greater utilization, more uncompensated care and the resulting cost shifting to those with insurance, and the like.

The AGENTS stated that § 89a.108(e) requiring notice of a premium rate schedule increase to consumers 45 days prior to implementation date is prudent. They also wanted "Advance notice to producers should also be sent out by the insurer" added to this section. This helps the consumer in two ways: First, the producer can explain the basis for the change and preserve the account; or, second, if the rate increase is too steep, the producer will have some time to shop around to other insurers on the consumer's behalf.

IRRC believed that in § 89a.108(b)(5), insurers are required to provide premium rate increase information for a policy form or similar forms for the past 10 years. They stated that comparable policies, in many cases, did not exist 10 years ago and wanted the Department to amend the regulation to provide for flexibility when 10 years of data is not available.

The Department wants to note that the 10-year history requirement is NAIC Model language. It was developed with insurance industry input. The Department agrees that not all policies (or similar policies) existed 10 years ago; therefore the information is not available. As a result, the Department is inserting the following language "... over the past 10 years or *during the existence of the policy or similar policy up to a maximum of 10 years for this state...*" (new language italicized). This new language should allow flexibility when the 10-year history is not available, while still remaining consistent with the intent of the NAIC Model.

With respect to § 89a.108(c), the Department believes this requirement is an important consumer protection provision to ensure that consumers are provided with the consumer disclosure information required by the regulation. This section is consistent with the NAIC Model and no changes have been made to it.

With respect to § 89a.108(e), the Department believes that this proposed requirement would also be burdensome

to insurers and is not consistent with the NAIC Model. Nothing in the regulation would prohibit the insurer from providing this type of notification to producers.

Section 89a.109. Initial filing requirements.

IBC stated that § 89a.109(b)(2)(iv)(B) provides that an actuary must certify that he has taken into account moderately adverse experience, i.e., a contingency margin, and that the carrier is pricing with the expectation of no future rate increase. Overall, IBC believed that this provision is a positive addition to the regulatory scheme as it will protect the consumer from certain predatory pricing practices. However, the IBC believed that there is also a negative aspect to this requirement in cases when an actuary has followed the regulatory guidelines, including margin and pricing so that there is no anticipated rate increase, but the carrier still is forced to file a rate increase.

The Department wants to note that this requirement is consistent with the NAIC Model. The Department believes this requirement is important for providing rate stability and predictability, one of the main goals of these revised regulations. No changes have been made.

IRRC noted that § 89a.109 of the proposed rulemaking does not mention a specific time period, but does reference the Accident and Health Filing Reform Act (40 P. S. §§ 3801—3815). To be more specific, the regulation should reference the time periods in sections 3 and 4 of the Accident and Health Filing Reform Act (40 P. S. §§ 3803 and 3804). IRRC also noted that in the NAIC Model, the insurer is given 30 days to provide the required information to the Commissioner.

The Department has added the specific citations to the regulation. However, the Department does not believe it is necessary to add specific time periods. If the statute changes the time-frames allowed, this reference to the sections will be more appropriate than actually giving the number of days.

Sections 89a.111. Minimum standards.

The IFP believed that in § 89a.111(4), (6) and (7) removing "requiring" from the beginning of the phrase will follow the style of the other subsections which begin with "that."

The Department agrees that this style would be more appropriate and has made the change accordingly.

Section 89a.112. Inflation protection.

The AGENTS supported presenting the option of inflation protection to consumers. Unfortunately, the NAIC Model assumes a choice for inflation protection that may or may not be there unless the consumer specifically opts-out by rejecting this coverage. The NAIC and the Department clearly want to protect consumers from future expenses due to cost of living increases. The way the regulation is currently worded may result in higher-priced coverage than the consumer wanted in the event that the producer did not obtain the signature. This would lead to more consumer complaints to the Department and policy cancellations because they may feel that coverage was forced upon them even if the producer's error was unintentional. A simpler way is to require the signature form as part of the application.

The AGENTS recommend the following language as a substitute for subsection (g).

'(g) Inflation protection in a long-term care insurance policy shall be offered by the producer and documented by a form signed by the consumer that

attests to the fact that inflation protection was offered and accepted or rejected. The form may be included within the application or on a separate form as the insurer chooses. An insurer shall not accept an application from a producer without this signed form.'

MThe text of this signed statement shall read, "I have reviewed the outline of coverage and graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed policies(s) _____, and I accept ___ reject ___ (check one) inflation protection."

The IFP believed that in describing in § 89a.112(g), the process by which an applicant may accept or reject inflation protection, the Department prescribes the language by which a rejection should be made. The language currently states that the applicant has "reviewed policy(ies), and . . ." rejects the inflation protection.

The IFP suggested that it would be more accurate in terms of what actually takes place in such a process to have that last sentence state, "Specifically, I have reviewed Plans _____, and I reject inflation protection."

The Department believes it is important to maintain the consumer protections by means of the mandatory offer of inflation protection in § 89a.112(g). This type and manner of offer is consistent with NAIC Model and is therefore not being revised. The Department is making the minor editorial change as suggested by the IFP. This change makes the section consistent with the NAIC Model.

Section 89a.113. Requirements for application forms and replacement coverage.

The IFP brought to the Department's attention that while it is legally more accurate, the substitution of "Commonwealth" for "state" in various standardized forms which must be delivered requires carriers to dispense with current materials, file forms for approval and print materials specific to Pennsylvania. It would save insurers money if this change were deleted from the proposal at least with respect to specified forms which must be delivered and the use of which insurers may already have adopted across their operations.

The IFP pointed out, for example, that in § 89a.113(c) that item 4 of the Statement to Applicant By Agent starts: "2. Commonwealth law provides . . ." This is a variation from the NAIC Model, which, while meaningless in terms of substance, is a cost item which is more than negligible.

IRRC looked at the sample application forms that are to be used by insurance companies and noted that the Department had changed NAIC Model language from "state" to "Commonwealth" in the proposed rulemaking. Commentators have suggested that by substituting "Commonwealth" for "state" in various standardized forms, carriers would be required to print costly materials specific only to Pennsylvania. IRRC wondered if there is a need for insurers to make application forms that are specific to Pennsylvania?

The Department realized that there could be additional and unnecessary costs associated with the changes as proposed and therefore has changed the term "Commonwealth" back to "state" in applications and other standard forms that do not have to be Pennsylvania specific.

Section 89a.114. Reporting requirements.

The AGENTS stated that § 89a.114(b) requiring insurers to report to the Department the top 10% of its producers with the greatest percentages of lapses and replacements appears to be adding to the Department workload without producing discernable benefit. For one thing, the Department's enforcement resources do not extend to launching an investigation of the top 10% unless there is a specific suspected pattern of abuse. If the intent is to have ready access to the data through a Market Conduct Examination, another approach would be to have insurers collect this data and have it readily available if the Department needs it. The other thing missing from this section is the understanding that all replacements are not the same. The Department is looking for abuses occurring when the original policy did not need to be replaced. It should not lump these abuses in with legitimate replacements occurring because of a policy enhancement.

Alternative wording should be:

(b) 'Insurers shall provide this data to the department in the event of a market conduct or enforcement investigation. For purposes of this section, the term replacement shall not include long-term care product improvements or enhancements of coverage as an endorsement to or in the context of an existing policy.'

The AGENTS stated that in § 89a.114(c) they agree with the statement in the regulation that reported replacement and lapse rates do not constitute a violation of insurance law. The AGENTS recommend that the word "alone" be deleted in this sentence. Including it leaves the implication that reported lapse and replacement rates might be a violation of insurance laws or necessarily imply wrongdoing. There may be legitimate reasons why policies lapse, for example if a company does not renew a group plan or if an area is hit by layoffs or by the economic downturn.

The sentence "The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance" should be deleted for the reason stated. If the Department requires the information for purposes of a market conduct exam or enforcement investigation, it is available on a case by case basis from the insurer.

The AGENTS stated that § 89a.114(f) requires reporting of qualified the long-term care contracts. They wondered "Why did the Department ask for this information re qualified and not unqualified policies as well?"

The Department believes that the information required in the reports in § 89a.114(b) are important monitoring and enforcement tools and has not changed the language. The Department is adding a new standardized reporting form as Appendix G (relating to long-term care insurance replacement and lapse reporting form). This new form is being adopted in the NAIC Model.

The Department agrees with the AGENTS regarding § 89a.114(c) that replacement and lapse rates alone should not constitute a violation of insurance laws or necessarily imply wrongdoing. However, they have misinterpreted this section. It affirms that these replacement and lapse rates alone would not be used as the sole evidence of a violation. The Department has not revised the NAIC Model language.

The requirement in § 89a.114(f) is necessary for Federally tax-qualified long-term care policies to meet Federal

IRS requirements. There are no similar requirements for nontax qualified long-term care policies. This is consistent with the NAIC Model and the Department has not made any changes to this section.

Section 89a.115. Licensing.

The AGENTS commented that too specific a reference to a section of the law that may be changed because of Model Producer Licensing Act enactment in the near future may force the Department to update this regulation shortly after it went into effect. Alternative wording might be:

'No one may sell, solicit or negotiate with respect to long-term care insurance unless licensed as a producer by the department.'

The Department wants to note that the statutory citations contained in the regulation are current to date. The Department believes it is appropriate to cite to current law and not take into account pending legislative language. If legislation is enacted, the new requirements would supersede all previous licensing requirements. Thus, no change has been made.

Section 89a.118 Premium rate schedule increases.

The IFP stated that projected lapse and past lapse rates are required for rate increase filings meeting certain criteria under this section. Following the wording of the NAIC Model, it appears that the last word in the first criteria subsection (h)(1) should be "form or forms" rather than "form."

The IBC stated that the required disclosure of all prior rate increases for similar policy forms, especially given the broad definition of "similar" policy forms in § 89a.108(b)(5), could make selling policies difficult after a rate increase. Because the relevant loss ratio calculations for determining rate increases are on a present value basis, and because of the previously-referenced disincentives for rate increases, a company with adverse experience might choose to wait and see if experience improves rather than file for a rate increase. If claims experience does not improve, however, the insurer could sustain a large financial loss that could result in a large premium increase later for the consumer.

The IBC stated that § 89a.118 allows for an 85% loss ratio on the premium increase and a 58% loss ratio on the initial premium in pricing a revised premium. Thus the loss ratio on the block of business over its lifetime is a weighted average (by premium dollars) of 58% and 85%. Under some circumstances, depending on claim and administrative expenses, an insurer ultimately could show a financial loss on the business. Too frequent and significant financial losses could result in the withdrawal of carriers from the marketplace.

The Department agrees with the minor editorial change the IFP suggested and has modified the section to add "or forms" which follows the NAIC Model.

The Department believes that the required loss ratios in § 89a.118 are appropriate. The loss ratios were developed by the NAIC with input from the insurance industry. Thus, the Department has not changed this section.

Section 89a.119, 89.123 and 89.124. Filing requirement; nonforfeiture benefit requirement; and standards for benefit triggers.

The IFP noted that one of its members called attention to the fact that statutory references in the proposed regulation in the captioned sections differ from citations in the current regulation. The IFP suspected that this is

not surprising in light of intervening changes, but suggested that they be reviewed for accuracy.

The Department has reviewed the statutory references and modified § 89a.119 as appropriate. The other referenced sections did not require any changes.

Section 89a.120. Standards for marketing.

The AGENTS stated in § 89a.120(c)(1) that association group marketing of long-term care insurance is a growing component of the market. Associations promoting the long-term care insurance policies do not sell insurance unless they are licensed to do so. Associations may endorse a product under an arrangement with bona fide producers. The word 'selling' should be deleted. The AGENTS suggested the addition of a sentence to read:

"Nothing in this section shall be construed as permitting the marketing, soliciting, selling, or negotiating of an association-sponsored long-term care insurance policy unless there is compliance with producer licensing laws of the Commonwealth."

The AGENTS stated in § 89a.120(c)(3) that the association is required in this section to reveal commissions received. Again, the point must be made that associations must be licensed before it can legally receive commissions. The other issue is the disclosure of the commission itself. Certainly, the association's Board and other decision-makers would have that information when the decision was made. Disclosing commissions received might encourage agent rebating. Members might exert pressure to "give back" some of the commission, something at odds with Act 205 and long-standing Department policy. This regulation should not place producers in a position to fend off association demands for a rebate. Insurance producers are not required to disclose commission income now for any type of insurance. This should not be the place to start.

The AGENTS stated in § 89a.120(c)(5) that the board of directors of an association should be required to approve of the sponsored plan and terms of compensation arrangements with the insurer. Add the words "or producer" since the association considers a sponsored policy through a licensed producer and not necessarily directly to the insurer. Again, the word 'selling' should be deleted as inconsistent with licensing law.

The AGENTS stated in § 89a.120(c)(6) that this section has an exemption for qualified long-term care insurance. The AGENTS requested clarification. Does this pose an added regulatory hurdle for nonqualified plans? This section also mandates that an association "engage the services of a person with expertise in long-term care insurance" to examine the proposed policy, and the like. The AGENTS question this requirement. Should the association always contract with a person having expertise in long-term care insurance before deciding? It may not always be in its best interest if the expert is, in fact, partial towards a competitor. An expert may recommend that the association not pursue a long-term care policy because the consumer may just happen to have a disability income policy that the consumer wants to place. This requirement will enhance predatory behavior in the marketplace. It may also add to the association's total cost of providing long-term care insurance because of the consultant's cost. In addition, if the association has a comfort level with an existing producer or product, why create another hoop to jump through? We understand where we think the Department is going on this provision but maintain that it will impede the growth of long-term care insurance. There is no harm in getting a second opinion

but a better approach would delete existing paragraph (6)(i) and use the following substitute language:

"Nothing shall prevent an association from engaging the services of a person with expertise in the long-term care insurance not affiliated with the insurer to conduct an examination of the policies . . ."

The Department has, after further examination and research, considered the comments made here and has retained language relating to associations from the NAIC Model. The AGENTS stated correctly that associations may only sell, solicit or negotiate insurance when licensed to do so. In such a case, compliance with licensing statutes and all other applicable statutes and regulations would apply accordingly. Further, the Department has added the phrase "or producer" in § 89a.120(c)(5) as suggested by the AGENTS.

Section 89a.123. Nonforfeiture benefit requirement.

Overall the IBC believed this provision is favorable because it prevents carriers from engaging in inappropriately low pricing. In certain instances, predatory pricing carriers would benefit from having received premiums, which later are raised significantly for policies that subsequently lapse after a rate increase. The reason this practice is favorable to the companies is that long-term care insurance is considered a "lapse supported product." In considering profit or loss for a lapse supported product, an actuary takes into account those policies that lapse after covering issue and maintenance expenses but before claims are incurred.

Under the draft regulations, the policyholder had two choices. The policyholder can obtain either a reduced benefit, under certain circumstances, at the original premium or a reduced paid-up benefit with no further premium payments required in the event of a rate increase. The IBC believed that the addition of these options is a good alternative to the lapse of a policy after a consumer would have paid premiums for a number of years without receiving benefits.

The IBC was concerned, however, that in the event of a rate increase this provision, which potentially provides a nonforfeiture benefit depending on issue age and level of premium increase, imposed another additional cost to the insurer because long-term care insurance is a lapse supported product. The proposed rulemaking did mitigate this cost somewhat by the Department's allowing the insurer (if the Department is convinced that a rising rate spiral exists) to replace existing coverage, without underwriting, with a comparable product being sold. This is essentially a pooling mechanism that allows individuals holding a troubled policy to switch to a more stable policy without underwriting. While this provision is preferable to merely letting the troubled policy spiral out of control, there are still restrictions on rate increases for the resulting combined block of policies that could prevent a carrier from effectively pricing its products to remain in the marketplace.

The Department believes these requirements are appropriate and were developed by the NAIC with input from the insurance industry. No changes have been made to this section.

Section 89a.124. Standards for benefit triggers.

The AGENTS stated in § 89a.124(b) that this section lists activities of daily living as 'triggers' for long-term care insurance. Although the Department uses the word "may," there appears to be an inference that all must be triggered versus a number of these activities depending

on the specific policy and whether or not it is qualified or nonqualified. Although not explicitly stated, the regulation appears to be addressing nonqualified plans since § 89a.125 (relating to additional standards for benefit triggers for qualified long-term care insurance contracts) cites additional standards for qualified long-term care triggers.

The AGENTS further stated that in light of Act 13, home health care plans that are regulated as long-term care insurance may not have the same set of triggers. Consider substitute language:

'(b) Insurers must conspicuously list the activities of daily living necessary to trigger benefits.'

The Department considered the use of "may" in § 89a.124(b). It should be noted that § 89a.124(a) requires: "Eligibility for the payment of benefits may not be more restrictive than requiring either a deficiency in the ability to perform not more than three activities of daily living or the presence of cognitive impairment." As stated earlier regarding home health policies in § 89a.104, the home health care insurance licensing requirements added by Act 132 did not address nor change the services provided under home health care insurance that would include benefit triggers. Furthermore, these requirements are consistent with the NAIC Model. The Department believes these requirements are clear and no changes have been made.

Section 89a.125. Additional standards for benefit triggers for qualified long-term care insurance contracts.

The Department has modified this section to put the defined terms in alphabetical order.

Section 89a.126. Standard format for coverage.

The AGENTS stated in § 89a.126(e)(15) that this part of the format directs the policyholder to contact the Department of Aging's Senior Health Insurance Assistance Program (SHIP) (APPRISE (800) 783-7067) for general questions regarding the long-term care insurance and to the insurer for specific questions about the policy.

From the point of view of the three agents' associations commenting on this regulation, the first point of contact should be the producer who sold the policy. The consumer has the professional credentials to discuss the long-term care insurance. The consumer also has the professional basis to want a good customer relationship to continue. The incentive is to answer both general and specific questions. The AGENTS strongly believe that the producer is the first recourse. Contacting the Senior Health Insurance Assistance Program or the insurer, or both, should be fallback options after the producer has tried to help resolve the question. The regulation's language ignores the vital function of the insurance producer.

The AGENTS suggested substitute language should be: "For questions of either a general or specific nature regarding long-term care insurance, contact the licensed insurance producer who sold you the policy. Other resources are the State Senior Health Insurance Assistance Program for questions generally relating to long-term care insurance or the insurer (insert insurance company name and phone number) for questions specific to a particular long-term care policy."

The Department generally agrees that the producer is an integral part of the communication process with insurance consumers, however it appears unnecessary to list them in this section. The Department, in consistency with IRRC comments on § 89a.113 regarding Nationally consistent forms, has revised this language to be consis-

tent with the NAIC Model by removing the specific reference to the APPRISE Program and using the generic reference to the "State Health Insurance Assistance Program listed in the brochure." The Department believes that APPRISE, which is part of the SHIP program, is the best source for impartial information and counseling on long-term care insurance and the SHIP should be identified as the primary contact for general long-term care insurance questions.

Section 89a.129. Permitted compensation arrangements.

The AGENTS stated in § 89a.129(a) and (b) that the sections listing permitted compensation should spell out exactly the legislative citation regarding new policies (50 %) and renewals (up to 10%) as well as the prohibition on receiving higher commissions on replacements.

Regarding § 89a.129(c), the AGENTS commented that they strongly disagree with the definition to include nonmonetary incentives such as trips. Given that a producer's bonus may include more than one type of insurance, it creates bookkeeping difficulty. If a producer sells several types of health insurance, incentives such as trips are usually bundled rather than being segmented by specific line. In addition, a bonus may have the real world impact of reducing producer financial compensation if there is an overall cap including nonmonetary gain. This amounts to an intrusion into the ways producers are compensated, a stretch from the traditional regulatory reach of the Department. Traditionally, the Department in areas such as Act 143 on the P/C side (agency termination law) has shied away from getting into the middle of agency-company commission issues.

The IFP very much appreciated the Department's willingness to take another look at the advisability of retaining the current regulation's restrictions on sales compensation. The IFP realized that the Department may have received some correspondence from insurers separate from the IFP's on this issue. Moreover, as the IFP discussed, this is noted as an optional piece in the NAIC Model. Frankly, member companies of the IFP have been living with the regulation for some time, so deleting this takes second seat to getting the overall regulation in place.

The IFP stated that there is little use in reiterating arguments for deleting this section which have been well articulated by companies which are experts in selling the product. However, the success of the effort to delete this section probably depends on the Department's view of what has happened in the marketplace and what protections are required.

The IFP also stated that the new regulation unarguably contains many standards intended to address the problem of inappropriate replacements. Further, the Department is aware that the proper sale of this product is contact intensive, so that, unless inappropriate sales behavior is a major problem, allowing ample selling inducements is essential to having both knowledgeable agents and sound sales practices. Consequently, unless there is widespread inappropriate replacement activity which these older restrictions really help discourage, the IFP believes the case for dropping this section is compelling.

IRRC questioned the retention of this section with the existing provisions, which place limits on compensation to an agent or broker for the sale of a long-term care insurance policy (see § 89.921 (relating to permitted compensation arrangements)). For example, the rule limits a commission or other compensation to a maximum of 50% of the first year premium of a long-term care policy.

However, the NAIC Model uses a maximum of 200%. Commentators question the need for the 50% limitation. IRRC wanted to know what is the Department's rationale for maintaining the 50% rule?

The Department noted that section 1112 of the Long-Term Care Act (40 P. S. § 991.1112) requires that: "The department shall promulgate reasonable regulations to establish minimum standards for marketing practices, agent compensation arrangements, agent testing, penalties and reporting practices for long-term care insurance." The Department established the permitted compensation arrangements in 1995 by means of an approved and promulgated regulation to address concerns about marketing and sales practices including churning of policies, which sometimes included physical intimidation of senior citizens. The number of churning cases has decreased since the Department originally promulgated this regulation. However, the Department is concerned that revising these requirements would cause an increase in abusive sales and marketing practices, including churning.

Regarding the NAIC Model language on permitted compensation arrangements, the NAIC Model states: "An insurer or other entity may provide commission or other compensation to an agent or other representative for the sale of a long-term care insurance policy or certificate only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period." The 200% commission in the NAIC Model is based upon the maximum allowable second year commission for the policy, not based upon the policy premiums, while Pennsylvania's permitted compensation arrangements are based on policy premiums. Therefore, the Department's current regulatory language allows for a higher initial year commission. The Department believes the permitted compensation arrangements are reasonable and has not changed this section.

Appendix B—Long-Term Care Personal Worksheet

The IFP noted that the Long-Term Care Personal Worksheet which is Appendix B follows the NAIC Model except for the addition on the second page under the question about buying inflation protection referring applicants to the Agency on Aging. That information is already provided in the Shopper's Guide and its repetition here would require a separate Pennsylvania form. As the IFP indicated, this is an additional cost to insurers which it appears unnecessary to incur in light of the redundancy.

The Department agrees and, in consistency with the IRRC comments on § 89a.113 regarding Nationally consistent forms, has modified the language to be consistent with the NAIC Model.

The NAIC, at its winter meeting in Chicago (December 2001), proposed that Appendix G be added to the NAIC Model regulation. As this was after the proposed regulation's public comment period, commentators did not have the opportunity to comment on this addition. However, this change was signed off by the industry and does not add any substantive changes to the NAIC Model regulation. In fact, it makes it easier for insurers to use the same format, therefore, the Department has added Appendix G with the appropriate references in § 89a.114.

Affected Parties

This final-form rulemaking applies to insurance companies doing the business of long-term care insurance in this Commonwealth.

Fiscal Impact

State Government

There will be no increase in cost to the Department due to the adoption of Chapter 89a.

General Public

There will be no fiscal impact to the public.

Political Subdivisions

The final-form rulemaking will not impose additional costs on political subdivisions.

Private Sector

This final-form rulemaking will not impose additional costs on insurance companies doing the business of long-term care insurance in this Commonwealth.

Paperwork

The adoption of the rulemaking will not impose additional paperwork on the Department or the insurance industry.

Effectiveness/Sunset Date

This final-form rulemaking becomes effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

Contact person

Questions regarding this final-form rulemaking, should be directed to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. In addition, questions may be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

Regulatory review

Under section 5(a) of the Regulatory Review Act, on January 23, 2002 (71 P.S. § 745.5(a)), the Department submitted a copy of this final-form rulemaking to IRRC and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted final-form rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

In preparing this final-form rulemaking, the Department considered all comments received from IRRC, the Committees and the public. This final-form rulemaking was deemed approved by the House and Senate Committees on February 12, 2002. In accordance with section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), IRRC met on February 21, 2002, and approved the final-form rulemaking in accordance with section 5.1(e), of the Regulatory Review Act.

Findings

The Department finds that:

(1) Public notice of intention to adopt this rulemaking as amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of this rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Department, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 31 Pa. Code, are amended by deleting §§ 89.901—89.921 and by adding §§ 89a.1—89a.129 and Appendices A—G, to read as set forth in Annex A.

(2) The Department shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(3) The Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) This final-form rulemaking shall take effect upon final publication in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 1362 (March 9, 2002).)

Fiscal Note: Fiscal Note 11-208 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 31. INSURANCE

PART IV. LIFE INSURANCE

CHAPTER 89. APPROVAL OF LIFE, ACCIDENT AND HEALTH INSURANCE

Subchapter M. (Reserved)

§§ 89.901—89.921. (Reserved).

CHAPTER 89a. LONG-TERM CARE INSURANCE MODEL REGULATION

Sec.

- 89a.101. Purpose.
- 89a.102. Applicability and scope.
- 89a.103. Definitions.
- 89a.104. Policy definitions.
- 89a.105. Policy practices and provisions.
- 89a.106. Unintentional lapse.
- 89a.107. Required disclosure provisions.
- 89a.108. Required disclosure of rating practices to consumers.
- 89a.109. Initial filing requirements.
- 89a.110. Prohibition against postclaims underwriting.
- 89a.111. Minimum standards for home health and community care benefits in long-term care insurance policies.
- 89a.112. Requirement to offer inflation protection.
- 89a.113. Requirements for application forms and replacement coverage.
- 89a.114. Reporting requirements.
- 89a.115. Licensing.
- 89a.116. Reserve standards.
- 89a.117. Loss ratio.
- 89a.118. Premium rate schedule increases.
- 89a.119. Filing requirement.
- 89a.120. Standards for marketing.
- 89a.121. Suitability.
- 89a.122. Prohibition against preexisting conditions and probationary periods in replacement policies or certificates.
- 89a.123. Nonforfeiture benefit requirement.
- 89a.124. Standards for benefit triggers.
- 89a.125. Additional standards for benefit triggers for qualified long-term care insurance contracts.
- 89a.126. Standard format outline of coverage.
- 89a.127. Requirement to deliver shopper's guide.
- 89a.128. Penalties.
- 89a.129. Permitted compensation arrangements.

§ 89a.101. Purpose.

The purpose of this chapter is to implement sections 1101—1115 of the act (40 P.S. §§ 991.1101—991.1115), to promote the public interest, to promote the availability of

long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages and to facilitate flexibility and innovation in the development of long-term care insurance.

§ 89a.102. Applicability and scope.

Except as otherwise specifically provided, this chapter applies to all long-term care insurance policies, including qualified long-term care contracts delivered or issued for delivery in this Commonwealth on or after March 16, 2002, by insurers, fraternal benefit societies, nonprofit hospital plan and professional health services plan corporations, prepaid health plans, health maintenance organizations and all similar organizations. Certain provisions of this chapter apply only to qualified long-term care insurance contracts as noted.

§ 89a.103. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Insurance Company Law of 1921 (40 P. S. §§ 341—991.2361)

Applicant—The term as defined in section 1103 of the act (40 P. S. § 991.1103).

Certificate—The term as defined in section 1103 of the act.

Commissioner—The Insurance Commissioner of the Commonwealth.

Department—The Insurance Department of the Commonwealth.

Exceptional increase—Only those increases filed by an insurer as exceptional for which the Commissioner determines the need for the premium rate increase is justified.

(i) Increases due to changes in laws or regulations applicable to long-term care coverage in this Commonwealth or due to increased and unexpected utilization that affects the majority of insurers of similar products.

(ii) Except as provided in § 89a.118 (relating to premium rate schedule increases), exceptional increases are subject to the same requirements as other premium rate schedule increases.

(iii) The Commissioner may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase.

(iv) The Commissioner, in determining that the necessary basis for an exceptional increase exists, will also determine potential offsets to higher claims costs.

Functionally necessary—The term as defined in section 1103 of the act.

Group long-term care insurance—The term as defined in section 1103 of the act.

Incidental—As used in § 89a.118(j), means that the value of the long-term care benefits provided is less than 10% of the total value of the benefits provided over the life of the policy. These values shall be measured as of the date of issue.

Long-term care insurance—The term as defined in section 1103 of the act.

Medically necessary—The term as defined in section 1103 of the act.

Policy—The term as defined in section 1103 of the act.

Producer—An agent as defined in section 601 of the act (40 P. S. § 231), or a broker as defined in section 621 of the act (40 P. S. § 251).

Qualified actuary—A member in good standing of the American Academy of Actuaries.

Qualified long-term care insurance contract or Federally tax-qualified long-term care insurance contract—

(i) An individual or group insurance contract that meets all of the following requirements of section 7702B(b) of the Internal Revenue Code of 1986 (IRC) (26 U.S.C.A. § 77026B(b)):

(A) The only insurance protection provided under the contract is coverage of qualified long-term care services. A contract may not fail to satisfy the requirements of this subparagraph by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(B) The contract does not pay or reimburse expenses incurred for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act (42 U.S.C.A. §§ 1395—1395ggg) or would be so reimbursable but for the application of a deductible or coinsurance amount. The requirements of this subparagraph do not apply to expenses that are reimbursable under Title XVIII of the Social Security Act only as a secondary payor. A contract may not fail to satisfy the requirements of this subparagraph by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(C) The contract is guaranteed renewable, within the meaning of section 7702B(b)(1)(C) of the IRC.

(D) The contract does not provide for a cash surrender value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed.

(E) All refunds of premiums and all policyholder dividends or similar amounts, under the contract are to be applied as a reduction in future premiums or to increase future benefits, except that a refund on the event of death of the insured or a complete surrender or cancellation of the contract cannot exceed the aggregate premiums paid under the contract.

(F) The contract meets the consumer protection provisions in section 7702B(g) of the IRC.

(ii) The term also means the portion of a life insurance contract that provides long-term care insurance coverage by rider or as part of the contract and that satisfies the requirements of section 7702B(b) and (e) of the IRC.

Similar policy forms—All of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition in section 1103 of the act (40 P. S. § 991.1103) are not considered similar to certificates or policies otherwise issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows:

(i) Institutional long-term care benefits only.

(ii) Noninstitutional long-term care benefits only.

(iii) Comprehensive long-term care benefits.

§ 89a.104. Policy definitions.

(a) A long-term care insurance policy delivered or issued for delivery in this Commonwealth may not use the terms set forth as follows, unless the terms are defined in the policy and the definitions satisfy the following requirements:

Activities of daily living—Bathing, continence, dressing, eating, toileting and transferring.

Acute condition—The term means that the individual is medically unstable. This individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, to maintain the individual's health status.

Adult day care—A program for six or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home.

Bathing—Washing oneself by sponge bath, or in either a tub or shower, including the task of getting into or out of the tub or shower.

Cognitive impairment—A deficiency in a person's short or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.

Continence—The ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).

Dressing—Putting on and taking off all items of clothing and necessary braces, fasteners or artificial limbs.

Eating—Feeding oneself by getting food into the body from a receptacle (such as a plate, cup or table) or by a feeding tube or intravenously.

Hands-on assistance—Physical assistance (minimal, moderate or maximal) without which the individual would not be able to perform the activity of daily living.

Home health care services—Medical and nonmedical services, provided to ill, disabled or infirm persons in their residences. The services may include homemaker services, assistance with activities of daily living and respite care services.

Medicare—The program under the Health Insurance for the Aged Act in Title XVIII of the Social Security Amendments of 1965 (42 U.S.C.A. §§ 1395—1395ggg) and any later amendments or substitutes thereof.

Mental or nervous disorder—The term may not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.

Personal care—The provision of supervisory or hands-on services to assist an individual with activities of daily living.

Skilled nursing care, intermediate care, personal care, home care and other services—These terms shall be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

Toileting—Getting to and from the toilet, getting on and off the toilet and performing associated personal hygiene.

Transferring—Moving into or out of a bed, chair or wheelchair.

(b) All providers of services, including, but not limited to, skilled nursing facility, extended care facility, intermediate care facility, convalescent nursing home, personal care facility and home care agency shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed or certified only when the licensure or certification of the provider is required by the state in which the provider is located.

§ 89a.105. Policy practices and provisions.

(a) *Renewability*. The terms "guaranteed renewable" and "noncancellable" may not be used in an individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of § 89a.108 (relating to required disclosure of rating practices to consumers).

(1) A policy issued to an individual may not contain renewal provisions other than "guaranteed renewable" or "noncancellable."

(2) The term "guaranteed renewable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make a change in a provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

(3) The term "noncancellable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make a change in a provision of the insurance or in the premium rate.

(4) The term "level premium" may only be used when the insurer does not have the right to change the premium.

(5) In addition to the requirements of this subsection, a qualified long-term care insurance contract shall be guaranteed renewable, within the meaning of section 7702B(b)(1)(C) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 7702B(b)(1)(C)).

(b) *Limitations and exclusions.*

(1) A policy may not be delivered or issued for delivery in this Commonwealth as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:

(i) Preexisting conditions or diseases.

(ii) Mental or nervous disorders; however, this may not permit exclusion or limitation of benefits on the basis of clinically diagnosed Alzheimer's Disease or related degenerative or dementing illnesses.

(iii) Alcoholism and drug addiction.

(iv) Illness, treatment or medical condition arising out of any of the following:

(A) War or act of war (whether declared or undeclared).

(B) Participation in a felony, riot or insurrection.

(C) Service in the armed forces or units auxiliary thereto.

(D) Suicide (sane or insane), attempted suicide or intentionally self-inflicted injury.

(E) Aviation (this exclusion applies only to nonfare-paying passengers).

(v) Treatment provided in a government facility (unless a charge is made and the insured is legally obligated to pay), services for which benefits are available under Medicare or other governmental program except Medicaid, a state or Federal workers' compensation, employer's liability or occupational disease law or services provided by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance.

(vi) Expenses for services or items available or paid under another long-term care insurance or health insurance policy.

(vii) In the case of a qualified long-term care insurance contract, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act (Medicare) (42 U.S.C.A. §§ 1395—1395ggg) or would be so reimbursable but for the application of a deductible or coinsurance amount.

(2) This subsection is not intended to prohibit exclusions and limitations by type of provider or territorial limitations.

(3) Benefits otherwise payable under a long-term care policy shall be payable in excess of and not in duplication of valid and collectable first party benefits under a state motor vehicle responsibility law. See 75 Pa.C.S. §§ 1701—1798 (relating to Motor Vehicle Financial Responsibility Law).

(c) *Extension of benefits.* Termination of long-term care insurance shall be without prejudice to benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. The extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period or to payment of the maximum benefits and may be subject to a policy waiting period and other applicable provisions of the policy.

(d) *Continuation or conversion.*

(1) Group long-term care insurance issued in this Commonwealth on or after March 16, 2002, shall provide covered individuals with a basis for continuation or conversion of coverage.

(2) For the purposes of this section, "a basis for continuation of coverage" means a policy provision that maintains coverage under the existing group policy when the coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies that restrict provision of benefits and services to, or contain incentives to use certain providers or facilities may provide continuation benefits that are substantially equivalent to the benefits of the existing group policy. The Commissioner will make a determination as to the substantial equivalency of benefits, and in doing so, will take into consideration the differences between managed care and nonmanaged care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(3) For the purposes of this section, "a basis for conversion of coverage" means a policy provision that an individual whose coverage under the group policy would

otherwise terminate or has been terminated for a reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and a group policy which it replaced), for at least 6 months immediately prior to termination, will be entitled to the issuance of a converted policy by the insurer under whose group policy the individual is covered, without evidence of insurability.

(4) For the purposes of this section, "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the Commissioner to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. When the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers or facilities, the Commissioner, in making a determination as to the substantial equivalency of benefits, will take into consideration the differences between managed care and nonmanaged care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(5) Written application for the converted policy shall be made and the first premium due, if applicable, shall be paid as directed by the insurer not later than 31 days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy, and shall be renewable annually.

(6) When an insured converts from a group policy with rates based on the issue age of the insured to a conversion policy, the premium for the conversion policy shall be calculated on the basis of the insured's age at inception of continuous coverage on the original group policy and any other group policy which replaced the original group policy. When an insured converts from a group policy with rates based on the attained age of the insured, the premium for the conversion policy shall be calculated on the insured's age as of the date of conversion.

(7) Continuation of coverage or issuance of a converted policy shall be mandatory, except when:

(i) Termination of group coverage resulted from an individual's failure to make the required payment of premium or contribution when due.

(ii) The terminating coverage is replaced not later than 31 days after termination, by group coverage effective on the day following the termination of coverage. Both of the following provisions apply:

(A) Providing benefits identical to or benefits determined by the Commissioner to be substantially equivalent to or in excess of those provided by the terminating coverage.

(B) The premium for which is calculated in a manner consistent with paragraph (6).

(8) Notwithstanding this section, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy that provides benefits on the basis of incurred expenses, may contain a provision that results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100% of incurred expenses. The provision shall only be included in the converted policy if the converted policy

also provides for a premium decrease or refund which reflects the reduction in benefits payable.

(9) The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, may not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.

(10) Notwithstanding this section, an insured individual whose eligibility for group long-term care coverage is based upon the individual's relationship to another person shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.

(11) For the purposes of this section a "managed-care plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks.

(e) *Discontinuance and replacement.* If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy may not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced and may not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services.

(f) *Premium rate increase.*

(1) The premium charged to an insured may not increase due to either of the following:

(i) The increasing age of the insured at ages beyond 65.

(ii) The duration the insured has been covered under the policy.

(2) The purchase of additional coverage may not be considered a premium rate increase, but for purposes of the calculation required under § 89a.123 (relating to nonforfeiture benefit requirement), the portion of the premium attributable to the additional coverage shall be added to and considered part of the initial annual premium.

(3) A reduction in benefits may not be considered a premium change, but for purpose of the calculation required under § 89a.123, the initial annual premium shall be based on the reduced benefits.

(g) *Electronic enrollment for group policies.*

(1) In the case of a group defined in section 1103 of the act (40 P. S. § 991.1103), a requirement that a signature of an insured be obtained by a producer or insurer shall be deemed satisfied if the following conditions are met:

(i) The consent is obtained by telephonic or electronic enrollment by the group policyholder or insurer. A verification of enrollment information shall be provided to the enrollee.

(ii) The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention and prompt retrieval of records.

(iii) The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure that the confidentiality of individually identifiable information is maintained.

(2) The insurer shall make available, upon request of the Commissioner, records that will demonstrate the insurer's ability to confirm enrollment and coverage amounts.

§ 89a.106. Unintentional lapse.

(a) Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following conditions:

(1) *Notice before lapse or termination.* An individual long-term care policy or certificate may not be issued until the insurer has received from the applicant either a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation may not constitute acceptance of liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one person. The designation shall include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintentional lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until 30 days after a premium is due and unpaid. I elect not to designate a person to receive this notice." The insured shall be able to change the written designation at any time. The insurer shall notify the insured of the right to change this written designation, at least once every 2 years.

(2) *Deduction plans.* When the policyholder or certificateholder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in paragraph (1) need not be met until 60 days after the policyholder or certificateholder is no longer on the payment plan. The application or enrollment form for those policies or certificates shall clearly indicate the payment plan selected by the applicant.

(3) *Lapse or termination for nonpayment of premium.* No individual long-term care policy or certificate may lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated under paragraph (1), at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice shall be given by first class United States mail, postage prepaid; and notice may not be given until 30 days after a premium is due and unpaid. Notice shall be deemed to have been given as of 5 days after the date of mailing.

(b) *Reinstatement.* In addition to the requirement in subsection (a), a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage, in the event of lapse if the insurer is provided proof that the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option shall be available to the insured if requested within 5 months after termination

and shall allow for the collection of a past due premium, when appropriate. The standard of proof of cognitive impairment or loss of functional capacity may not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate.

§ 89a.107. Required disclosure provisions.

(a) *Renewability.* Individual long-term care insurance policies shall contain a renewability provision.

(1) The provision shall be appropriately captioned, shall appear on the first page of the policy and shall clearly state that the coverage is guaranteed renewable or noncancellable. This provision does not apply to policies that do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder.

(2) A long-term care insurance policy or certificate, other than one in which the insurer does not have the right to change the premium, shall include a statement that premium rates may change.

(b) *Riders and endorsements.* Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, a rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. When a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, rider or endorsement.

(c) *Payment of benefits.* A long-term care insurance policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import shall include a definition of these terms and an explanation of the terms in its accompanying outline of coverage.

(d) *Limitations.* If a long-term care insurance policy or certificate contains limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."

(e) *Other limitations or conditions on eligibility for benefits.* A long-term care insurance policy or certificate containing limitations or conditions for eligibility other than those prohibited in sections 1105 and 1108 of the act (40 P.S. §§ 991.1105 and 991.1108) shall set forth a description of the limitations or conditions, including the required number of days of confinement, in a separate paragraph of the policy or certificate and shall label this paragraph "Limitations or Conditions on Eligibility for Benefits."

(f) *Benefit triggers.* Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be described in the policy or certificate in a separate paragraph and shall be labeled "Eligibility for the Payment of Benefits." Additional benefit triggers shall also be explained in this section. If these triggers differ for different benefits, explanation of the trigger shall accompany each benefit

description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too shall be specified.

(g) *Disclosure statement—qualified.* A qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in § 89a.126(e)(3) (relating to standard format outline of coverage) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 7702B(b)).

(h) *Disclosure statement—nonqualified.* A nonqualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in § 89a.126(e)(3) that the policy is not intended to be a qualified long-term care insurance contract.

§ 89a.108. Required disclosure of rating practices to consumers.

(a) This section shall apply as follows:

(1) Except as provided in paragraph (2), this section applies to a long-term care policy or certificate issued in this Commonwealth on or after September 16, 2002.

(2) For certificates issued on or after March 16, 2002, under a group long-term care insurance policy as defined in section 1103 of the act (40 P.S. § 991.1103), which policy was in force on March 16, 2002, this section shall apply on the policy anniversary following March 17, 2003.

(b) Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in this subsection to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer shall provide all of the information listed in this section to the applicant no later than at the time of delivery of the policy or certificate.

(1) A statement that the policy may be subject to rate increases in the future.

(2) An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision.

(3) The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase.

(4) A general explanation for applying premium rate or rate schedule adjustments that shall include both of the following:

(i) A description of when premium rate or rate schedule adjustments will be effective (for example, next anniversary date, next billing date).

(ii) The right to a revised premium rate or rate schedule as provided in paragraph (2) if the premium rate or rate schedule is changed.

(5) The following information:

(i) Information regarding each premium rate increase on this policy form or similar policy forms over the past 10 years or during the existence of the policy or similar policy up to a maximum of 10 years for this State or any other state that, at a minimum, identifies all of the following:

(A) The policy forms for which premium rates have been increased.

(B) The calendar years when the form was available for purchase.

(C) The amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase, and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics.

(ii) The insurer may, in a fair manner, provide additional explanatory information related to the rate increases.

(iii) An insurer shall have the right to exclude from the disclosure premium rate increases that only apply to blocks of business acquired from nonaffiliated insurers or the long-term care policies acquired from nonaffiliated insurers when those increases occurred prior to the acquisition.

(iv) If an acquiring insurer files for a rate increase on a long-term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the later of March 16, 2002, or the end of a 24-month period following the acquisition of the block or policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company shall include the disclosure of that rate increase in accordance with subparagraph (i).

(v) If the acquiring insurer in subparagraph (iv) files for a subsequent rate increase, even within the 24-month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from nonaffiliated insurers referenced in subparagraph (iv), the acquiring insurer shall make all disclosures required by this paragraph, including disclosure of the earlier rate increase referenced in subparagraph (iv).

(c) An applicant shall sign an acknowledgement at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure required under subsection (b)(1) and (5). If due to the method of application the applicant cannot sign an acknowledgement at the time of application, the applicant shall sign no later than at the time of delivery of the policy or certificate.

(d) An insurer shall use the forms in Appendices B and F (relating to long-term care insurance personal worksheet; and rate information) to comply with the requirements of subsections (a) and (b).

(e) An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least 45 days prior to the implementation of the premium rate schedule increase by the insurer for the policyholder or certificateholder. The notice shall include the information required by subsection (b) when the rate increase is implemented.

§ 89a.109. Initial filing requirements.

(a) This section applies to a long-term care policy issued in this Commonwealth on or after September 16, 2002.

(b) An insurer shall provide the information listed in this subsection to the Commissioner prior to making a long-term care insurance form available for sale subject to sections 3 and 4 of the Accident and Health Filing Reform Act (40 P. S. §§ 3803 and 3804).

(1) A copy of the disclosure documents required in § 89a.108 (relating to required disclosure of rating practices to consumer).

(2) An actuarial certification consisting of at least the following:

(i) A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated.

(ii) A statement that the policy design and coverage provided have been reviewed and taken into consideration.

(iii) A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration.

(iv) A complete description of the basis for contract reserves that are anticipated to be held under the form, to include the following:

(A) Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held.

(B) A statement that the assumptions used for reserves contain reasonable margins for adverse experience.

(C) A statement that the net valuation premium for renewal years does not increase (except for attained-age rating where permitted).

(D) A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if this statement cannot be made, a complete description of the situations where this does not occur.

(I) An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship.

(II) If the gross premiums for certain age groups appear to be inconsistent with this requirement, the Commissioner may request a demonstration under subsection (c) based on a standard age distribution.

(v) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits and a comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences.

(c) The Commissioner may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration shall include either premium and claim experience on similar policy forms, adjusted for premium or benefit differences; relevant and credible data from other studies, or both. In the event the Commissioner asks for additional information under this provision, the period in subsection (a) does not include the period during which the insurer is preparing the requested information.

§ 89a.110. Prohibition against postclaims underwriting.

(a) Applications for long-term care insurance policies or certificates except those that are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

(b) If an application for long-term care insurance contains a question that asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed. If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, the policy or certificate may not be rescinded for that condition.

(c) Except for policies or certificates which are guaranteed issue:

(1) The following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate:

Caution: If your answers on this application are incorrect or untrue, [company] has the right to deny benefits or rescind your policy.

(2) The following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery:

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up questions is now, before a claim arises! If, for any reason, your answers are incorrect, contact the company at this address: [insert address]

(3) Prior to issuance of a long-term care policy or certificate to an applicant 80 years of age or older, the insurer shall obtain one of the following:

- (i) A report of a physical examination.
- (ii) An assessment of functional capacity.
- (iii) An attending physician's statement.
- (iv) Copies of medical records.

(d) A copy of the completed application or enrollment form (whichever is applicable) shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application.

(e) Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both State and countrywide, except those that the insured voluntarily effectuated and shall annually furnish this information to the Commissioner in the format prescribed by the National Association of Insurance Commissioners in Appendix A (relating to rescission reporting form for long-term care policies).

§ 89a.111. Minimum standards for home health and community care benefits in long-term care insurance policies.

(a) A long-term care insurance policy or certificate may not, if it provides benefits for home health care or community care services, limit or exclude benefits by requiring any of the following:

(1) That the insured or claimant would need care in a skilled nursing facility if home health or community care services were not provided.

(2) That the insured or claimant first or simultaneously receive nursing or therapeutic services, or both, in a home, community or institutional setting before home health care services are covered.

(3) Limiting eligible services to services provided by registered nurses or licensed practical nurses.

(4) That a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or licensed or certified home care worker acting within the scope of the person licensure or certification.

(5) Excluding coverage for personal care services provided by a home health aide.

(6) That the provision of home health or community care services be at a level of certification or licensure greater than that required by the eligible service.

(7) That the insured or claimant have an acute condition before home health or community care services are covered.

(8) Limiting benefits to services provided by Medicare-certified agencies or providers.

(9) Excluding coverage for adult day care services.

(b) A long-term care insurance policy or certificate, if it provides for home health or community care services, shall provide total home health or community care coverage that is a dollar amount equivalent to at least one-half of 1 year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement does not apply to policies or certificates issued to residents of continuing care retirement communities.

(c) Home health or community care coverage may be applied to the nonhome health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.

§ 89a.112. Requirement to offer inflation protection.

(a) An insurer may not offer a long-term care insurance policy unless the insurer also offers to the policyholder in addition to other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers shall offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one of the following:

(1) Increases benefit levels annually in a manner so that the increases are compounded annually at a rate of at least 5%.

(2) Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined. The amount of the additional benefit may not be less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least 5% for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made.

(3) Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

(b) When the policy is issued to a group, the required offer in subsection (a) shall be made to the group policyholder; except, if the policy is issued to a group defined in section 1103 of the act (40 P.S. § 991.1103) other than to a continuing care retirement community, the offering shall be made to each proposed certificateholder.

(c) The offer in subsection (a) is not required of life insurance policies or riders containing accelerated long-term care benefits.

(d) Insurers shall include all of the information listed in this subsection or with the outline of coverage. An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure. The information is as follows:

(1) A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a 20 year period.

(2) Expected premium increases or additional premiums to pay for automatic or optional benefit increases.

(e) Inflation protection benefit increases under a policy which contains these benefits shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy.

(f) An offer of inflation protection that provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. The offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

(g) Inflation protection as provided in subsection (a)(1) shall be included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as required in this subsection. The rejection may be either in the application or on a separate form. The rejection shall be considered a part of the application and shall state:

I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed plans _____, and I reject inflation protection.

§ 89a.113. Requirements for application forms and replacement coverage.

(a) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace another accident and sickness or long-term care policy or certificate presently in force. A supplementary application or form to be signed by the applicant and producer, except when the coverage is sold without a producer, containing the questions may be used. With regard to a replacement policy issued to a group defined by section 1103 of the act (40 P.S. § 991.1103), the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced, provided that the certificateholder has been notified of the replacement.

(1) Do you have another long-term care insurance policy or certificate in force (including health care service contract or health maintenance organization contract)?

(2) Did you have another long-term care insurance policy or certificate in force during the last 12 months?

(i) If so, with which company?

(ii) If that policy lapsed, when did it lapse?

(3) Are you covered by Medicaid? If you are eligible or covered by Medicaid, you may not need to purchase the policy since it may provide duplicate benefits.

(4) Do you intend to replace any of your medical or health insurance coverage with this policy [certificate]?

(b) Producers shall list health insurance policies they have sold to the applicant.

(1) List policies sold that are still in force.

(2) List policies sold in the past 5 years that are no longer in force.

(c) Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its producer, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of the notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the following manner:

**NOTICE TO APPLICANT REGARDING
REPLACEMENT OF INDIVIDUAL ACCIDENT AND
SICKNESS OR LONG-TERM CARE INSURANCE**

[Insurance company's name and address]

**SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU
IN THE FUTURE.**

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [insurance company name]. Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

**STATEMENT TO APPLICANT BY PRODUCER [OR
OTHER REPRESENTATIVE]:**

(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

1. Health conditions that you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its producer regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of Producer or Other Representative)

[Typed Name and Address of producer]

The above "Notice to Applicant" was delivered to me on:

(Applicant's Signature)

(Date)

(d) Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be provided in the following manner:

**NOTICE TO APPLICANT REGARDING
REPLACEMENT OF ACCIDENT AND SICKNESS OR
LONG-TERM CARE INSURANCE**

[Insurance company's name and address]

**SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU
IN THE FUTURE.**

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by [insurance company name]. Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial

or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its producer regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

[Company Name]

(e) Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, the name of the insured and policy number or address including zip code. Notice shall be made within 5 working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

(f) The insurer shall maintain records demonstrating delivery date of policies so that this date can be used to determine the commencement of the 30-day policy examination period. Delivery date shall be deemed the date the policy is received by the policyholder.

§ 89a.114. Reporting requirements.

(a) Every insurer shall maintain records for each producer of that producer's amount of replacement sales as a percent of the producer's total annual sales and the amount of lapses of long-term care insurance policies sold by the producer as a percent of the producer's total annual sales.

(b) Every insurer shall report annually to the Department by June 30 the 10% of its producers with the greatest percentages of lapses and replacements as measured by subsection (a). (See Appendix G (relating to long-term care insurance replacement and lapse reporting form).)

(c) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely producer activities regarding the sale of long-term care insurance.

(d) Every insurer shall report annually to the Department by June 30 the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year. (See Appendix G.).

(e) Every insurer shall report annually to the Department by June 30 the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year. (See Appendix G.)

(f) Every insurer shall report annually to the Department by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied. (See Appendix E (relating to claims denial reporting form long term care insurance).)

(g) For purposes of this section:

(1) "Policy" means only long-term care insurance.

(2) Subject to paragraph (3), "claim" means a request for payment of benefits under an in force policy regardless of whether the benefit claimed is covered under the policy or terms or conditions of the policy have been met.

(3) "Denied" means the insurer refuses to pay a claim for reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition.

(4) "Report" means on a Statewide basis.

(h) Reports required under this section shall be filed with the Commissioner.

§ 89a.115. Licensing.

A producer is not authorized to sell, solicit or negotiate with respect to long-term care insurance except as authorized by sections 601 and 621 of the act (40 P. S. §§ 231 and 251).

§ 89a.116. Reserve standards.

When long-term care benefits are provided, reserves shall be determined in accordance with sections 301.1 and 311.1 of the act (40 P. S. §§ 71.1 and 93) and Chapter 84a (relating to minimum reserve standards for individual and group health and accident insurance contracts).

§ 89a.117. Loss ratio.

(a) This section shall apply to all long-term care insurance policies or certificates except those covered under §§ 89a.109 and 89.118 (relating to initial filing requirements; and premium rate schedule increases).

(b) Benefits under long-term care insurance policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least 60%, calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including the following:

(1) Statistical credibility of incurred claims experience and earned premiums.

(2) The period for which rates are computed to provide coverage.

(3) Experienced and projected trends.

(4) Concentration of experience within early policy duration.

(5) Expected claim fluctuation.

(6) Experience refunds, adjustments or dividends.

(7) Renewability features.

(8) All appropriate expense factors.

(9) Interest.

(10) Experimental nature of the coverage.

(11) Policy reserves.

(12) Mix of business by risk classification.

(13) Product features such as long elimination periods, high deductibles and high maximum limits.

§ 89a.118. Premium rate schedule increases.

(a) This section shall apply as follows:

(1) Except as provided in paragraph (2), this section applies to a long-term care policy or certificate issued in this Commonwealth on or after September 16, 2002.

(2) For certificates issued on or after March 16, 2002, under a group long-term care insurance policy as defined in section 1103 of the act (40 P. S. § 991.1103), which policy was in force on March 16, 2002, this section shall apply on the policy anniversary following March 17, 2003.

(b) An insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the Commissioner subject the Accident and Health Filing Reform Act (40 P. S. §§ 3801—3815) prior to the notice to the policyholders and shall include all of the following:

(1) Information required by § 89a.108 (relating to required disclosure of rating practices to consumers).

(2) Certification by a qualified actuary that:

(i) If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated.

(ii) The premium rate filing is in compliance with this section.

(3) An actuarial memorandum justifying the rate schedule change request that includes the following:

(i) Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including reflection of assumptions that deviate from those used for pricing other forms currently available for sale.

(A) Annual values for the 5 years preceding and the 3 years following the valuation date shall be provided separately.

(B) The projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase.

(C) The projections shall demonstrate compliance with subsection (c).

(D) For exceptional increases, the projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase. If the Commissioner determines as provided in § 89a.103 (relating to definitions) that offsets may exist, the insurer shall use appropriate net projected experience.

(ii) Disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse.

(iii) Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary.

(iv) A statement that policy design, underwriting and claims adjudication practices have been taken into consideration.

(v) In the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates.

(4) A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the Commissioner.

(5) Sufficient information for review subject to the Accident and Health Filing Reform Act of the premium rate schedule increase by the Commissioner.

(c) Premium rate schedule increases shall be determined in accordance with the following requirements:

(1) Exceptional increases shall provide that 70% of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits.

(2) Premium rate schedule increases shall be calculated so that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(i) The accumulated value of the initial earned premium times 58%.

(ii) Eighty-five percent of the accumulated value of prior premium rate schedule increases on an earned basis.

(iii) The present value of future projected initial earned premiums times 58%.

(iv) Eighty-five percent of the present value of future projected premiums not in this subsection on an earned basis.

(3) If a policy form has both exceptional and other increases, the values in paragraph (2)(ii) and (iv) will also include 70% for exceptional rate increase amounts.

(4) The present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves as specified in Chapter 84a (relating to minimum reserve standards for individual and group health and accident insurance contracts). The actuary shall disclose as part of the actuarial memorandum the use of appropriate averages.

(d) For each rate increase that is implemented, the insurer shall file for review subject to the Accident and Health Filing Reform Act by the Commissioner, updated projections, as defined in subsection (b)(3)(i), annually for the next 3 years and include a comparison of actual results to projected values. The Commissioner may extend the period to greater than 3 years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (k), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the Commissioner.

(e) If a premium rate in the revised premium rate schedule is greater than 200% of the comparable rate in the initial premium schedule, lifetime projections, as defined in subsection (b)(3)(i), shall be filed for review subject to the Accident and Health Filing Reform Act by

the Commissioner every 5 years following the end of the required period in subsection (d). For group insurance policies that meet the conditions in subsection (k), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the Commissioner.

(f) If the Commissioner has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (c), the Commissioner may require the insurer to implement premium rate schedule adjustments, or other measures to reduce the difference between the projected and actual experience. In determining whether the actual experience adequately matches the projected experience, consideration should be given to subsection (b)(3)(v), if applicable.

(g) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file the following:

(1) A plan, subject to Commissioner approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the Commissioner may impose the condition in subsection (h).

(2) The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to subsection (c) had the greater of the original anticipated lifetime loss ratio or 58% been used in the calculations described in subsection (c)(1)(i) and (iii)

(h) For a rate increase filing that meets the following criteria, the Commissioner will review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if significant adverse lapsation has occurred or is anticipated:

(1) The rate increase is not the first rate increase requested for the specific policy form or forms.

(2) The rate increase is not an exceptional increase.

(3) The majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

(i) If significant adverse lapsation has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the Commissioner may determine that a rate spiral exists. Following the determination that a rate spiral exists, the Commissioner may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates.

(1) The offer shall:

(i) Be subject to the approval of the Commissioner.

(ii) Be based on actuarially sound principles, but not be based on attained age.

(iii) Provide that maximum benefits under a new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy.

(2) The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of:

(i) The maximum rate increase determined based on the combined experience.

(ii) The maximum rate increase determined based only on the experience of the insureds originally issued the form plus 10%.

(j) If the Commissioner determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the Commissioner may, in addition to the provisions of subsection (h), prohibit the insurer from either of the following:

(1) Filing and marketing comparable coverage for up to 5 years.

(2) Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

(k) Subsections (a)—(j) do not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in § 89a.103 (relating to definitions), if the policy complies with the following conditions:

(1) The interest credited internally to determine cash value accumulations, including long-term care are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy.

(2) An actuarial memorandum is filed with the Department that includes the following:

(i) A description of the basis on which the long-term care rates were determined.

(ii) A description of the basis for the reserves.

(iii) A summary of the type of policy, benefits, renewability, general marketing method and limits on ages of issuance.

(iv) A description and a table of each actuarial assumption used. For expenses, an insurer shall include percent of premium dollars per policy and dollars per unit of benefits.

(v) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives.

(vi) The estimated average annual premium per policy and the average issue age.

(vii) A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or a dependent will be underwritten and when underwriting occurs.

(viii) A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture

values and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.

(l) Subsections (f) and (h) do not apply to group insurance policies as defined in section 1103 of the act (40 P. S. § 991.1103) when either:

(1) The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer.

(2) The policyholder, and not the certificateholders, pays a material portion of the premium, which may not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.

§ 89a.119. Filing requirement.

Prior to an insurer or similar organization offering group long-term care insurance to a resident of this Commonwealth under section 1104 of the act (40 P. S. § 991.1104), it shall file with the Commissioner evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this Commonwealth.

§ 89a.120. Standards for marketing.

(a) Every insurer, health care service plan or other entity marketing long-term care insurance coverage in this Commonwealth, directly or through its producers, shall:

(1) Establish marketing procedures and producer training requirements to assure that marketing activities, including a comparison of policies, by its producers will be fair and accurate and excessive insurance is not sold or issued.

(2) Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

(3) Provide copies of the disclosure forms required in § 89a.108(c) (Appendices B and F) (relating to long term care insurance personal worksheet; and rate information) to the applicant.

(4) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required.

(5) Every insurer or entity marketing long-term care insurance shall establish auditable procedures for verifying compliance with this subsection.

(6) Provide written notice to the prospective policyholder or certificateholder at solicitation that a senior insurance counseling program approved by the Commonwealth is available and the name, address and telephone number of the program.

(7) For long-term care health insurance policies and certificates, use the terms "noncancellable" or "level pre-

mium" only when the policy or certificate conforms to § 89a.105(a)(3) (relating to policy practices and provisions).

(8) Provide an explanation of contingent benefit upon lapse provided for in § 89a.123(d)(3) (relating to nonforfeiture benefit requirement).

(b) The following acts and practices are prohibited:

(1) *Twisting.* Knowingly making misleading representation or fraudulent comparison of insurance policies or insurers for the purpose of inducing, or tending to induce, a person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert an insurance policy or to take out a policy of insurance with another insurer.

(2) *High pressure tactics.* Employing a method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) *Cold lead advertising.* Making use directly or indirectly of a method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company.

(4) *Misrepresentation.* Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.

(5) *Other prohibited practices.* Other practices prohibited by the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15).

(c) With respect to the obligations in this subsection, the primary responsibility of an association, as defined in paragraph (2) of the "group long-term care insurance" definition in section 1103 of the act (40 P. S. § 991.1103), when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions.

(1) Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by the associations to ensure that members of the associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold.

(2) The insurer shall file with the Department the following material:

- (i) The policy and certificate.
- (ii) A corresponding outline of coverage.
- (iii) Advertisements requested by the Department.

(3) The association shall disclose the following in a long-term care insurance solicitation:

(i) The specific nature and amount of the compensation arrangements (including the fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members.

(ii) A brief description of the process under which the policies and the insurer issuing the policies were selected.

(4) If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose that fact to its members.

(5) The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and approve the insurance policies as well as the compensation arrangements made with the insurer or producer.

(6) The association shall do the following except that this does not apply to qualified long-term care insurance contracts:

(i) At the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates and update the examination thereafter in the event of material change.

(ii) Actively monitor the marketing efforts of the insurer and its agents.

(iii) Review and approve all marketing materials or insurance communications used to promote sales or sent to members regarding the policies or certificates.

(7) Group long-term care insurance policies or certificates may not be issued to an association unless the insurer files with the Department the information required in this subsection.

(8) The insurer may not issue a long-term care policy or certificate to an association or continue to market that policy or certificate unless the insurer certifies annually that the association has complied with this subsection.

(9) Failure to comply with the filing and certification requirements of this section constitutes an unfair trade practice in violation of the Unfair Insurance Practices Act.

§ 89a.121. Suitability.

(a) Every insurer, nonprofit hospital plan and professional health services plan corporation or other entity marketing long-term care insurance (the issuer) shall meet the following conditions:

(1) Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant.

(2) Train its producers in the use of its suitability standards.

(3) Maintain a copy of its suitability standards and make them available for inspection upon request by the Commissioner.

(b) To determine whether the applicant meets the standards developed by the issuer, the producer and issuer shall develop procedures that take the items in paragraph (1) into consideration.

(1) The producer and issuer shall take the following into consideration:

(i) The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage.

(ii) The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs.

(iii) The values, benefits and costs of the applicant's existing insurance when compared to the values, benefits and costs of the recommended purchase or replacement.

(2) The issuer, and when a producer is involved, the producer shall make reasonable efforts to obtain the information in paragraph (1). The efforts shall include

presentation to the applicant, at or prior to application of the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the issuer shall contain, at a minimum, the information in the format contained in Appendix B (relating to long-term care insurance personal worksheet), in at least 12 point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet shall be filed with the Commissioner.

(3) A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.

(4) The sale or dissemination outside the company or agency by the issuer or producer of information obtained through the personal worksheet in Appendix B is prohibited.

(c) The issuer shall use the suitability standards it has developed under this section in determining whether issuing long-term care insurance coverage to an applicant is appropriate.

(d) Producers shall use the suitability standards developed by the issuer in marketing long-term care insurance.

(e) At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in Appendix C (relating to things you should know before you buy long-term care insurance), in at least 12 point type.

(f) If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter similar to the one presented in Appendix D (relating to long-term care insurance suitability letter). If the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

(g) The issuer shall report annually to the Commissioner the total number of applications received from residents of this Commonwealth, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards and the number of those who chose to confirm after receiving a suitability letter.

§ 89a.122. Prohibition against preexisting conditions and probationary periods in replacement policies or certificates.

If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy.

§ 89a.123. Nonforfeiture benefit requirement.

(a) Nonforfeiture benefits shall be offered under the following:

(1) A policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in subsection (e).

(2) The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the outline of coverage or other materials given to the prospective policyholder.

(b) If the offer made for nonforfeiture benefits is rejected, the insurer shall provide the contingent benefit upon lapse described in this section.

(c) After rejection of the offer for nonforfeiture benefits for individual and group policies without nonforfeiture benefits issued after March 16, 2002, the insurer shall provide a contingent benefit upon lapse.

(1) If a group policyholder elects to make the nonforfeiture benefit an option to the certificateholder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(2) The contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium in this paragraph based on the insured's issue age, and the policy or certificate lapses within 120 days of the due date of the premium so increased. Unless otherwise required, policyholders shall be notified at least 30 days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

<i>Issue Age</i>	<i>Percent Increase Over Initial Premium</i>
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%

<i>Issue Age</i>	<i>Percent Increase Over Initial Premium</i>
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

(3) On or before the effective date of a substantial premium increase as defined in paragraph (2), the insurer shall meet the following conditions:

(i) Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased.

(ii) Offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of subsection (e). This option may be elected during the 120-day period referenced in subsection (d)(3).

(iii) Notify the policyholder or certificateholder that a default or lapse during the 120-day period referenced in subsection (d)(3) shall be deemed to be the election of the offer to convert in subsection (d)(4).

(d) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse, are described in this subsection as follows:

(1) For purposes of this subsection, attained age rating is defined as a schedule of premiums starting from the issue date which increases age at least 1% per year prior to age 50, and at least 3% per year beyond age 50.

(2) For purposes of this subsection, the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in paragraph (3).

(3) The standard nonforfeiture credit will be equal to 100% of the sum of all premiums paid, including the premiums paid prior to changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall be at least 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of subsection (f).

(4) The nonforfeiture benefit shall begin by the end of the 3rd year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first 3 years as well as thereafter. For a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of either the end of the 10th year following the policy or certificate issue date or the end of the 2nd year following the date the policy or certificate is no longer subject to attained age rating.

(5) Nonforfeiture credits may be used for the care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

(e) The benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid up

status will not exceed the maximum benefits which would be payable if the policy or certificate had remained in premium paying status.

(f) There may not be a difference in the minimum nonforfeiture benefits as required under this section for group and individual policies.

(g) The requirements in this section are effective March 17, 2003, and apply as follows:

(1) Except as provided in paragraph (2), this section applies to a long-term care policy issued in this Commonwealth on or after March 16, 2002.

(2) For certificates issued on or after March 9 2002, under a group long-term care insurance policy as defined in section 1103 of the act (40 P. S. § 991.1103), which policy was in force on March 16, 2002, this section does not apply.

(h) Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of § 89a.117 (relating to loss ratio) treating the policy as a whole.

(i) To determine whether contingent nonforfeiture upon lapse provisions are triggered under subsection (d)(3), a replacing insurer that purchased or otherwise assumed blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer.

(j) A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts shall be offered that meets all of the following requirements:

(1) The nonforfeiture provision shall be appropriately captioned.

(2) The nonforfeiture provision shall provide a benefit available in the event of a default in the payment of premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts approved by the Commissioner for the same contract form.

(3) The nonforfeiture provision shall provide at least one of the following:

(i) Reduced paid-up insurance.

(ii) Extended term insurance.

(iii) Shortened benefit period.

(iv) Other similar offerings approved by the Commissioner.

§ 89a.124. Standards for benefit triggers.

(a) A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits may not be more restrictive than requiring either a deficiency in the ability to perform not more than three of the activities of daily living or the presence of cognitive impairment.

(b) Insurers may use activities of daily living to trigger covered benefits in addition to those contained in paragraphs (1)—(6) as long as they are defined in the policy.

Activities of daily living shall include at least the following as defined in § 89a.104 (relating to policy definitions) and in the policy:

- (1) Bathing.
- (2) Continence.
- (3) Dressing.
- (4) Eating.
- (5) Toileting.
- (6) Transferring.

(c) An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate. The provisions may not restrict, and are not in lieu of, the requirements in subsections (a) and (b).

(d) For purposes of this section, the determination of a deficiency may not be more restrictive than either of the following:

- (1) Requiring the supervisory or hands-on assistance of another person to perform the prescribed activities of daily living.
- (2) If the deficiency is due to the presence of a cognitive impairment, supervision or verbal cueing by another person is needed to protect the insured or others.
- (e) Assessments of activities of daily living and cognitive impairment shall be performed by licensed or certified professionals, such as physicians, nurses or social workers.

(f) Long-term care insurance policies shall include a clear description of the process for appealing and resolving benefit determinations.

(g) The requirements in this section become effective March 16, 2003, and apply as follows:

- (1) Except as provided in paragraph (2), this section applies to a long-term care policy issued in this Commonwealth on or after March 16, 2002.
- (2) For certificates issued on or after March 16, 2002, under a group long-term care insurance policy as defined in section 1103 of the act (40 P. S. § 991.1103) that was in force on March 16, 2002, this section does not apply.

§ 89a.125. Additional standards for benefit triggers for qualified long-term care insurance contracts.

(a) For purposes of this section, the following definitions apply:

Chronically ill individual—Has the meaning prescribed for this term by section 7702B(c)(2) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 7702B(c)(2)).

(i) Under this provision, a chronically ill individual means an individual who has been certified by a licensed health care practitioner as either of the following:

(A) Being unable to perform (without substantial assistance from another individual) at least two activities of daily living for at least 90 days due to a loss of functional capacity.

(B) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

(ii) The term does not include an individual otherwise meeting these requirements unless within the preceding 12-month period a licensed health care practitioner has certified that the individual meets these requirements.

Licensed health care practitioner—A physician, as defined in section 1861(r)(1) of the Social Security Act (42 U.S.C.A. § 1395x(r)(1)), a registered professional nurse, licensed social worker or other individual who meets requirements prescribed by the Secretary of the United States Treasury.

Maintenance or personal care services—Any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

Qualified long-term care services—Services that meet the requirements of section 7702(C)(1) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 7702(C)(1)) as follows: necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation and rehabilitative services, and maintenance or personal care services which are required by a chronically ill individual, and are provided under a plan of care prescribed by a licensed health care practitioner.

(b) A qualified long-term care insurance contract shall pay only for qualified long-term care services received by a chronically ill individual provided under a plan of care prescribed by a licensed health care practitioner.

(c) A qualified long-term care insurance contract shall condition the payment of benefits on a determination of the insured's inability to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity or to severe cognitive impairment.

(d) Certifications regarding activities of daily living and cognitive impairment required under subsection (c) shall be performed by the following licensed or certified professionals: physicians, registered professional nurses, licensed social workers, or other individuals who meet requirements prescribed by the Secretary of the United States Treasury.

(e) Certifications required under subsection (c) may be performed by a licensed health care professional at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity and the insured is in claim status, the certification may not be rescinded and additional certifications may not be performed until after the expiration of the 90-day period.

(f) Qualified long-term care insurance contracts shall include a clear description of the process for appealing and resolving disputes with respect to benefit determinations.

§ 89a.126. Standard format outline of coverage.

(a) This section implements, interprets and makes specific section 1111 of the act (40 P. S. § 911.1111) in prescribing a standard format and the content of an outline of coverage.

(b) The outline of coverage shall:

(1) Be a free-standing document, using no smaller than 10-point type.

(2) Contain no material of an advertising nature.

(c) Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring.

(d) Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated.

(e) The standard format for outline of coverage is as follows:

[COMPANY NAME]

[ADDRESS—CITY & STATE]

[TELEPHONE NUMBER]

LONG-TERM CARE INSURANCE

OUTLINE OF COVERAGE

[Policy Number or Group Master Policy and Certificate Number]

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.]

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

1. This policy is [an individual policy of insurance] ([a group policy] which was issued in the [indicate jurisdiction in which group policy was issued]).

2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!

3. FEDERAL TAX CONSEQUENCES.

This [POLICY] [CERTIFICATE] is intended to be a Federally tax-qualified long-term care insurance contract under section 7702B(b) of the Internal Revenue Code of 1986, as amended.

OR

Federal Tax Implications of this [POLICY] [CERTIFICATE]. This [POLICY] [CERTIFICATE] is not intended to be a Federally tax-qualified long-term care insurance contract under section 7702B(b) of the Internal Revenue Code of 1986 as amended. Benefits received under the [POLICY] [CERTIFICATE] may be taxable as income.

4. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE CONTINUED IN FORCE OR DISCONTINUED.

(a) [For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:

(1) Policies and certificates that are guaranteed renewable shall contain the following statement:] RENEWABILITY:

THIS POLICY [CERTIFICATE] IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy, [certificate] to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.

(2) [Policies and certificates that are noncancellable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS NONCANCELLABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, [Company Name] may increase your premium at that time for those additional benefits.

(b) [For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy.]

(c) [Describe waiver of premium provisions or state that there are not such provisions.]

5. TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.

[In bold type larger than the maximum type required to be used for the other provisions of the outline of coverage, state whether or not the company has a right to change the premium, and if a right exists, describe clearly and concisely each circumstance under which the premium may change.]

6. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

(a) [Provide a brief description of the right to return—"free look" provision of the policy.]

(b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]

7. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

(a) [For producers] Neither [insert company name] nor its producers represent Medicare, the Federal government or any state government.

(b) [For direct response] [insert company name] is not representing Medicare, the Federal government or any state government.

8. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community or in the home. This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

9. BENEFITS PROVIDED BY THIS POLICY.

- (a) [Covered services, related deductibles, waiting periods, elimination periods and benefit maximums.]
- (b) [Institutional benefits, by skill level.]
- (c) [Noninstitutional benefits, by skill level.]
- (d) Eligibility for Payment of Benefits

[Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and must be defined and described as part of the outline of coverage.]

[Any additional benefit triggers must also be explained. If these triggers differ for different benefits, explanation of the triggers should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified.]

10. LIMITATIONS AND EXCLUSIONS.

[Describe:

- (a) Preexisting conditions.
- (b) Noneligible facilities and provider.
- (c) Noneligible levels of care (for example, unlicensed providers, care or treatment provided by a family member, and the like).
- (d) Exclusions and exceptions.
- (e) Limitations.]

[This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in Number 9 above.]

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

11. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

- (a) That the benefit level will not increase over time.
- (b) Any automatic benefit adjustment provisions.
- (c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage.
- (d) If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations.
- (e) And finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

12. ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

13. PREMIUM.

- (a) State the total annual premium for the policy.

(b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

14. ADDITIONAL FEATURES.

- (a) Indicate if medical underwriting is used.
- (b) Describe other important features.]

15. CONTACT THE STATE HEALTH INSURANCE ASSISTANCE PROGRAM LISTED IN THE BROCHURE IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY (INSERT INSURANCE COMPANY NAME AND PHONE NUMBER) IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

§ 89a.127. Requirement to deliver shopper's guide.

A long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners, or a guide developed or approved by the Commissioner, shall be provided to all prospective applicants of a long-term care insurance policy or certificate.

(1) In the case of producer solicitations, a producer shall deliver the shopper's guide prior to the presentation of an application or enrollment form.

(2) In the case of direct response solicitations, the shopper's guide shall be presented in conjunction with an application or enrollment form.

§ 89a.128. Penalties.

In addition to other penalties provided by the laws of the Commonwealth, an insurer or producer found to have violated requirements relating to the regulations of long-term care insurance or the marketing of long-term care insurance shall be subject to penalties under section 1114 of the act (40 P. S. § 991.1114).

§ 89a.129. Permitted compensation arrangements.

(a) An insurer or other entity may provide commission or other compensation to a producer for the sale of a long-term care insurance policy or certificate only if the first year commission or other compensation is not greater than 50% of the first year premium.

(b) The commission or other compensation provided for a minimum of 5 subsequent (renewal) years may not exceed 10% of the renewal premium.

(c) When there is a replacement of an existing policy or duplication of coverage, an entity may not provide compensation to its producers and a producer may not receive compensation greater than the renewal compensation payable by the replacing or duplicative insurer.

(d) For purposes of this section, "compensation" includes pecuniary or nonpecuniary remuneration relating to the sale or renewal of the policy or certificate, including bonuses, gifts, prizes, awards and finders fees.

(e) Subsections (a) and (b) apply solely to producers who directly solicit applicants and insureds and who effect the sale of a policy or certificate and not to general agents or other entities who contract with or are otherwise employed by insurers.

Appendix A**RESCISSION REPORTING FORM FOR
LONG-TERM CARE POLICIES FOR THE STATE
OF _____ FOR THE REPORTING YEAR 20[___]**

Company Name: _____

Address: _____

Phone Number: _____

Due: March 1 annually

Instructions:

The purpose of this form is to report all rescissions of long-term care insurance policies or certificates. Those rescissions voluntarily effectuated by an insured are not required to be included in this report. Please furnish one form per rescission.

Policy Form #	Policy and Certifi- cate #	Name of Insured	Date of Policy Issuance	Date/s Claim/s Submit- ted	Date of Rescis- sion
Detailed reason for rescission:					

Signature_____
Name and Title (please type)_____
Date**Appendix B****LONG-TERM CARE INSURANCE PERSONAL
WORKSHEET**

People buy long-term care insurance for many reasons. Some don't want to use their own assets to pay for long-term care. Some buy insurance to make sure they can choose the type of care they get. Others don't want their family to have to pay for care or don't want to go on Medicaid. But long term care insurance may be expensive, and may not be right for everyone.

By Pennsylvania law, the insurance company must fill out part of the information on this worksheet and **ask** you to fill out the rest to help you and the company decide if you should buy this policy.

Premium Information

Policy Form Numbers _____

The premium for the coverage you are considering will be [\$ _____ per month, or \$ _____ per year.] [a one-time single premium of \$ _____.]

Type of Policy (noncancellable/guaranteed renewable):**The Company's Right to Increase Premiums:**

[The company cannot raise your rates on this policy.] [The company has a right to increase premiums on this policy form in the future, provided it raises rates for all policies

in the same class in this State.] [Insurers shall use appropriate bracketed statement. Rate guarantees may not be shown on this form.]

Rate Increase History

The company has sold long-term care insurance since [year] and has sold this policy since [year]. [The company has never raised its rates for a long-term care policy it has sold in this State or another state.] [The company has not raised its rates for this policy form or similar policy forms in this State or another state in the last 10 years.] [The company has raised its premium rates on this policy form or similar policy forms in the last 10 years. Following is a summary of the rate increases.]

Questions Related to Your Income

How will you pay each year's premium?

[] From my Income [] From my Savings/Investments
[] My Family will Pay

[] Have you considered whether you could afford to keep this policy if the premiums went up, for example, by 20%?

What is your annual income? (check one)

[] Under \$10,000 [] \$[10-20,000] [] \$[20-30,000]
[] \$[30-50,000] [] Over \$50,000

How do you expect your income to change over the next 10 years? (check one)

[] No change [] Increase [] Decrease

If you will be paying premiums with money received only from your own income, a rule of thumb is that you may not be able to afford this policy if the premiums will be more than 7% of your income.

Will you buy inflation protection? (check one)

[] Yes [] No

If not, have you considered how you will pay for the difference between future costs and your daily benefit amount?

[] From my Income [] From my Savings/Investments
[] My Family will Pay

The National average annual cost of care in [insert year] was [insert \$ amount], but this figure varies across the country. In 10 years the National average annual cost would be about [insert \$ amount] if costs increase 5% annually.

What elimination period are you considering? Number of days ____ Approximate cost \$ ____ for that period of care.

How are you planning to pay for your care during the elimination period? (check one)

[] From my Income [] From my Savings/Investments
[] My Family will Pay

Questions Related to Your Savings and Investments

Not counting your home, about how much are all of your assets (your savings and investments) worth? (check one)

[] Under \$20,000 [] \$20,000-\$30,000

[] \$30,000-\$50,000 [] Over \$50,000

How do you expect your assets to change over the next ten years? (check one)

[] Stay about the same [] Increase [] Decrease

If you are buying this policy to protect your assets and your assets are less than \$30,000, you may wish to consider other options for financing your long-term care.

Disclosure Statement

[] The answers to the questions above describe my financial situation.

Or

[] I choose not to complete this information.

(Check one.)

[] I acknowledge that the carrier and/or its producer (below) has reviewed this form with me including the premium, premium rate increase history and potential for premium increases in the future. [For direct mail situations, use the following: I acknowledge that I have reviewed this form including the premium, premium rate increase history and potential for premium increases in the future.] I understand the above disclosures. **I understand that the rates for this policy may increase in the future.** (This box must be checked).

Signed: (Applicant) (Date)

[[] I explained to the applicant the importance of completing this information.

Signed:

(Producer)

(Date)

Producer's Printed Name: _____]

[In order for us to process your application, please return this signed statement to [name of company], along with your application.]

[My producer has advised me that this policy does not seem to be suitable for me. However, I still want the company to consider my application.

Signed: _____]

(Applicant)

(Date)

The company may contact you to verify your answers.

Appendix C

THINGS YOU SHOULD KNOW BEFORE YOU BUY LONG-TERM CARE INSURANCE

Long-term care Insurance

* A long-term care insurance policy may pay most of the costs for your care in a nursing home. Many policies also pay for care at home or other community settings. Since policies can vary in coverage, you should read this policy and make sure you understand what it covers before you buy it.

* [You should **not** buy this insurance policy unless you can afford to pay the premiums every year.] [Remember that the company can increase premiums in the future.]

* The personal worksheet includes questions designed to help you and the company determine whether this policy is suitable for your needs.

Medicare

* Medicare does not pay for most long-term care.

Medicaid

* Medicaid will generally pay for long-term care if you have very little income and few assets. You probably should **not** buy this policy if you are now eligible for Medicaid.

* Many people become eligible for Medicaid after they have used up their own financial resources by paying for long-term care services.

* When Medicaid pays your spouse's healthcare service bills, you are allowed to keep your house and furniture, a living allowance, and some of your joint assets.

* Your choice of long-term care services may be limited if you are receiving Medicaid. To learn more about Medicaid, contact your local or state Medicaid agency.

* Make sure the insurance company or producer gives you a copy of a book called the National Association of Insurance Commissioners' "Shopper's Guide to Long-Term Care Insurance." Read it carefully. If you have decided to apply for long-term care insurance, you have the right to return the policy within 30 days and get back premium you have paid if you are dissatisfied for a reason or choose not to purchase the policy.

Shopper's Guide

Counseling

* Free counseling and additional information about long-term care insurance are available through your state's insurance counseling program. Contact your state insurance department or department on aging for more information about the senior health insurance counseling program in your state.

Appendix D

LONG-TERM CARE INSURANCE SUITABILITY LETTER

Dear [Applicant]:

Your recent application for long-term care insurance included a "personal worksheet," which asked questions about your finances and your reasons for buying long-term care insurance. For your protection, State law requires us to consider this information when we review your application, to avoid selling a policy to those who may not need coverage.

[Your answers indicate that long-term care insurance may not meet your financial needs. We suggest that you review the information provided along with your application, including the booklet "Shopper's Guide to Long-Term Care Insurance" and the page titled "Things You Should Know Before Buying Long-Term Care Insurance." Your state insurance department also has information about long-term care insurance and may be able to refer you to a counselor free of charge who can help you decide whether to buy this policy.]

[You chose not to provide financial information for us to review.]

We have suspended our final review of your application. If, after careful consideration, you still believe this policy is what you want, check the appropriate box below and return this letter to us within the next 60 days. We will then continue reviewing your application and issue a policy if you meet our medical standards.

If we do not hear from you within the next 60 days, we will close your file and not issue you a policy. You should understand that you will not have coverage until we hear back from you, approve your application and issue you a policy.

Please check one box and return in the enclosed envelope.

[] **Yes**, [although my worksheet indicates that long-term care insurance may not be a suitable purchase,] I wish to purchase this coverage. Please resume review of my application.

[] **No**. I have decided not to buy a policy at this time.

APPLICANT'S SIGNATURE _____ DATE _____

Please return to [issuer] at [address] by [date].

Appendix E

CLAIMS DENIAL REPORTING FORM LONG-TERM CARE INSURANCE

For the State of _____

For the Reporting Year of _____

Company Name: _____

Due: June 30 annually

Company Address: _____

Company NAIC Number: _____

Contact Person: _____ Phone Number: _____

Line of Business: _____ Individual _____
Group _____

Instructions

The purpose of this form is to report all long-term care claim denials under in force long-term care insurance policies. "Denied" means a claim that is not paid for a reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition.

State Data Nationwide Data¹

- 1 Total Number of Long-Term Care Claims Reported
- 2 Total Number of Long-Term Care Claims Denied/Not Paid
- 3 Number of Claims Not Paid due to Preexisting Condition Exclusion
- 4 Number of Claims Not Paid due to Waiting (Elimination) Period Not Met
- 5 Net Number of Long-Term Care Claims Denied for Reporting Purposes (Line 2 Minus Line 3 Minus Line 4)
- 6 Percentage of Long-Term Care Claims Denied of Those Reported (Line 5 Divided By Line 1)
- 7 Number of Long-Term Care Claim Denied due to:
- 8 * Long-Term Care Services Not Covered under the Policy²
- 9 * Provider/Facility Not Qualified under the Policy³

State Data Nationwide Data¹

10 * Benefit Eligibility Criteria

Not Met⁴

11 * Other

1. The nationwide data may be viewed as a more representative and credible indicator where the data for claims reported and denied for your state are small in number.

2. Example—home health care claim filed under a nursing home only policy.

3. Example—a facility that does not meet the minimum level of care requirements or the licensing requirements as outlined in the policy.

4. Examples—a benefit trigger not met, certification by a licensed health care practitioner not provided, no plan of care.

Appendix F

RATE INFORMATION

Instructions:

This form provides information to the applicant regarding premium rate schedules, rate schedule adjustments, potential rate revisions, and policyholder options in the event of a rate increase.

Insurers shall provide all of the following information to the applicant:

Long-Term Care Insurance

Potential Rate Increase Disclosure Form

1. [Premium Rate] [Premium Rate Schedules]: [Premium rate] [Premium rate schedules] that [is] [are] applicable to you and that will be in effect until a request is made and [filed] [approved] for an increase [is] [are] [on the application] [\$ ____].

2. The [premium] [premium rate schedule] for this policy [will be shown on the schedule page of] [will be attached to] your policy.

3. Rate Schedule Adjustments:

The company will provide a description of when premium rate or rate schedule adjustments will be effective (for example, next anniversary date, next billing date, and the like) (fill in the blank): ____.

4. Potential Rate Revisions:

This policy is Guaranteed Renewable. This means that the rates for this product may be increased in the future. Your rates can NOT be increased due to your increasing age or declining health, but your rates may go up based on the experience of all policyholders with a policy similar to yours.

If you receive a premium rate or premium rate schedule increase in the future, you will be notified of the new premium amount and you will be able to exercise at least one of the following options:

* Pay the increased premium and continue your policy in force as is.

* Reduce your policy benefits to a level such that your premiums will not increase. (Subject to state law minimum standards.)

* Exercise your nonforfeiture option if purchased. (This option is available for purchase for an additional premium.)

* Exercise your contingent nonforfeiture rights.* (This option may be available if you do not purchase a separate nonforfeiture option.)

Turn the Page

*** Contingent Nonforfeiture**

If the premium rate for your policy goes up in the future and you didn't buy a nonforfeiture option, you may be eligible for contingent nonforfeiture. Here's how to tell if you are eligible:

If the premium rate for your policy goes up in the future and you didn't buy a nonforfeiture option, you may be eligible for contingent nonforfeiture. Here's how to tell if you are eligible:

You will keep some long-term care insurance coverage, if:

* Your premium after the increase exceeds your original premium by the percentage shown (or more) in the following table and

* You lapse (not pay more premiums) within 120 days of the increase.

The amount of coverage (that is, new lifetime maximum benefit amount) you will keep will equal the total amount of premiums you've paid since your policy was first issued. If you have already received benefits under the policy, so that the remaining maximum benefit amount is less than the total amount of premiums you've paid, the amount of coverage will be that remaining amount.

Except for this reduced lifetime maximum benefit amount, all other policy benefits will remain at the levels attained at the time of the lapse and will not increase thereafter.

Should you choose this Contingent Nonforfeiture option, your policy, with this reduced maximum benefit amount, will be considered "paid-up" with no further premiums due.

Example:

* You bought the policy at age 65 and paid the \$1,000 annual premium for 10 years, so you have paid a total of \$10,000 in premium.

* In the eleventh year, you receive a rate increase of 50%, or \$500 for a new annual premium of \$1,500, and you decide to lapse the policy (not pay more premiums).

* Your "paid-up" policy benefits are \$10,000 (provided you have a least \$10,000 of benefits remaining under your policy.)

Contingent Nonforfeiture

Cumulative Premium Increase over Initial Premium

That qualifies for Contingent Nonforfeiture

(Percentage increase is cumulative from date of original issue. It does NOT represent a one-time increase.)

Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%

Issue Age	Percent Increase Over Initial Premium
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

Appendix G

LONG-TERM CARE INSURANCE REPLACEMENT AND LAPSE REPORTING FORM

For the State of _____ For the Reporting Year of _____

Company Name: _____ Due: June 30 annually

Company Address: _____ Company NAIC Number: _____

Contact Person: _____ Phone Number: (____) _____

Instructions

The purpose of this form is to report on a statewide basis information regarding long-term care insurance policy replacements and lapses. Specifically, every insurer shall maintain records for each agent on that agent's amount of long-term care insurance replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales. The tables below should be used to report the ten percent (10%) of the insurer's agents with the greatest percentages of replacements and lapses.

Listing of the 10% of Agents with the Greatest Percentage of Replacements

Agent's Name	Number of Policies Sold By This Agent	Number of Policies Replaced By This Agent	Number of Replacements As % of Number Sold By This Agent

Listing of the 10% of Agents with the Greatest Percentage of Lapses

<i>Agent's Name</i>	<i>Number of Policies Sold By This Agent</i>	<i>Number of Policies Lapsed By This Agent</i>	<i>Number of Lapses As % of Number Sold By This Agent</i>

Company Totals

Percentage of Replacement Policies Sold to Total Annual Sales ___ %

Percentage of Replacement Policies Sold to Policies In Force (as of the end of the preceding calendar year) ___ %

Percentage of Lapsed Policies to Total Annual Sales ___ %

Percentage of Lapsed Policies to Policies In Force (as of the end of the preceding calendar year) ___ %

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